

**BERRYVILLE TOWN COUNCIL PUBLIC SAFETY COMMITTEE
MEETING AGENDA
Berryville-Clarke County Government Center
101 Chalmers Court, Second Floor
Meeting Room C
Regular Meeting
November 28, 2018
4:30 pm**

<u>Item</u>		<u>Attachment</u>
1. Call To Order	Donna McDonald, Chair	
2. Approval of Agenda		
3. Department Update	Neal White, Chief	
4. Town Code Review Update		
	Chapter 8	1
	Chapter 20	2
5. Closed Session	No Closed Session Scheduled	
6. Other		
7. Adjourn		

↑ Denotes an item on where a motion for action is included in the packet

November 28, 2018

**Repeal and Replacement of Chapter 8 of the Berryville
Code and Adoption of Related Policies**

Discussion

Overview

The Police and Security Committee (now Public Safety Committee) directed staff to review Chapter 8 of the Berryville Code. Specific direction given to staff by the Committee membership includes:

- Examine the elimination of multiple garbage toters at various occupancies within in Town, particularly those properties on which there is located commercial use
- Eliminate Town provided dumpsters
- Examine establishment of standards for issuance of garbage toters and recyclables bins (see chart attached to Appendix 2)
- Examine requiring commercial uses that can reasonably meet their own garbage removal needs to do so
- Examine requiring that all dumpsters visible from public rights-of-way be screened
- Update language for to reflect current collection regimen

Draft Chapter 8 and associated supporting documents

Please find attached the following:

- Draft Chapter 8 of the Berryville Code (dated 11/26/18)
- Ordinance for adoption of Chapter 8
- Current Chapter 8

Highlights of Draft Chapter 8

- It is intended that the existing Chapter 8 would be repealed and replaced with an entirely new chapter.
- New language is structured to be uniform for garbage and refuse collection, recyclables collection, and yard waste collection.
- The new language provides for policy that will address specifics preparation of waste, issuance of garbage toters and recyclables bins, and dumpster enclosure requirements.
- §8-1 provides definitions of key terms.
- §8-2 provides the Town Council and the Town Manager the authority to adopt policies and procedures in accordance with this chapter
- §8-3 provides for general penalty for violation of the provisions of the chapter.
- §8-4 addresses unlawful accumulations of solid waste on properties in town. An important change in this section permits the Town Manager to address removal of such accumulations where the existing ordinance requires Town Council action.
- §8-5 addresses disposal of solid waste that was generated outside of Town but has been deposited in Town. Note change in enforcement level.
- §8-6 addresses misuse of Town litter receptacles.

- §8-7 addresses the location of dumpsters in the Town. Staff determined that several issues needed to be addressed beyond the requirement to have screening. The issues addressed include: temporary (generally associated with construction) or permanent placement, and maintenance of dumpster areas. §8-7-b will provide the timeframe for all dumpsters visible from public rights-of-way to be screened.
- §8-15 – 22 addresses the Town collection of garbage and refuse and recyclable materials. §8-16 provides the Council with the authority to establish Special Service Areas if it so chooses. If the Council wishes to establish a Special Service Area, then Town staff would provide them with a list of properties to consider for curbside collection.
- §8-23-26 addresses the Town collection of yard waste
- §8-8-36 addresses collection of solid waste by others

Draft Garbage and Refuse, Recyclables, and Yard Waste Policy and associated supporting documents

Please find attached the following:

- Draft Garbage and Refuse , Recyclables, and Yard Waste Policy (dated 11/26/18)
 - o Appendix 1: Preparation and Placement for Collection by Town
 - o Appendix 2: Issuance of Toters, Bins, and Decals (including direction provided by Mayor Dickinson)
 - o Appendix 3: Dumpsters
 - o Appendix 4: Special Service Area Ordinance
- Ordinance for adoption of Garbage and Refuse, Recyclables, and Yard Waste Policy
- Draft Collection Routes and Times

Overview and Highlights of the Garbage and Refuse, Recyclables, and Yard Waste Policy

- The proposed policy establishes standards for:
 - o Curbside collection of garbage and refuse, recyclables, and yard waste
 - o Establishes the number of toters and bins will be issued as well as how identifying toter decals and bin decals will be issued
 - o Siting, screening, and maintaining dumpsters
 - o Provides for establishment of a special service area in which curbside collection of solid waste will be provided for uses other than single-family occupancies

Recommended Action

The Committee is asked to review the attached drafts and provide comment by 9 January. Staff will address comments for the Committee's 23 January 2019 meeting. After that review, the drafts will be sent to legal counsel for review.

Chapter 8 of the Berryville Code

- Draft Chapter 8 (11/26/18)
- Draft Ordinance for adoption
- Current Chapter 8

Chapter 8

Garbage and Refuse, Recyclables, and Yard Waste

Art. I. In General, §§ 8-1 – 8-14

Art. II Collection by town, §§ 8-15 – 8-34

Art. III Collection by others, §§ 8-35 -

ARTICLE I. - IN GENERAL

Sec. 8-1. – Definitions

For the purposes of this chapter, the following words and terms shall have the meanings ascribed to them by this section.

Appliance – Durable good for household use (e.g. clothes washers and dryers, water heaters, ovens, microwave ovens, refrigerators, dehumidifiers, televisions, and computers and computer components)

Bin – Town or contractor furnished recyclable materials container.

Bulk refuse – Large household refuse not reasonably placed in totor for collection (e.g. furniture, mattresses, and box springs).

Collection – Removal of solid waste, garbage and refuse and/or recyclable materials from its place of origin or storage to a collection vehicle.

Collection vehicle – Any vehicle used to collect or transport solid waste, garbage and refuse or recyclable materials.

Collector – Any person engaged in the business of collection and transportation of solid waste, garbage and refuse or recyclable materials.

Commercial /business waste - Solid waste, garbage and refuse or recyclable materials emanating from establishments engaged in business operations other than manufacturing. This category includes but is not limited to solid waste, garbage and refuse or recyclable materials emanating from such establishments as stores, markets, offices, and restaurants.

Construction, clearing and/or demolition debris- The waste building material, packaging, and rubble resulting from construction, land clearing, remodeling, repair, and demolition operations on pavements, houses, vacant land, commercial buildings, and other structures.

Dumpster - Any container having a capacity in excess of one hundred (100) gallons designed to contain solid waste, refuse, and garbage, or recyclable materials and which is emptied by mechanical means.

Dumpster enclosure – An opaque enclosure, which conforms to specifications and standards established by the Council, in which a dumpster is placed.

Garbage- Putrescible animal or vegetable waste resulting from the handling, preparation, cooking, serving, or consumption of food.

Hazardous waste – Solid waste which because of its inherent nature and/or qualities requires special handling during disposal to avoid creating environmental damage or hazards to public health or safety or landfill operations. Hazardous waste includes but is not limited to such items as petroleum waste, paints, plastics, explosives, acids, caustics, chemicals, poisons, drugs, radioactive materials, asbestos fibers, imported wool fibers, pathogenic wastes from hospitals, sanitariums, nursing homes, clinics and veterinary hospitals, waste from slaughterhouses, poultry processing plants and the like. (Residential solid waste normally contains very small amounts of hazardous waste but because they are found in such small amounts present no special problems for landfill operations. Therefore, residential waste is not considered to be hazardous waste within the meaning of hazardous waste used in the chapter).

Household waste – See “residential/household waste”.

Industrial waste- All solid waste, garbage and refuse or recyclable materials emanating from manufacturing, assembly of material, recycling, and other industrial activities.

Mixed paper- Paper accepted for recycling by the Town.

Occupant – The person who resides on premises as owner or tenant.

Qualified commercial/business occupancy – A licensed business located within the special collection zone and meeting the requirements for garbage and refuse and/or recyclable materials collection by the town.

Recyclables – Recyclable Materials emanating single-family detached homes or condominiums, attached residential units, and apartments, offices and commercial uses.

Recyclable Materials – Raw or processed material that can be recovered from the waste stream for reuse.

Refuse – Discarded items including but not limited to paper, cartons, boxes, debris, cans, glass, food packaging, clothing and the like. Refuse does not include hazardous or unacceptable waste.

Residential/household waste - Garbage and refuse or recyclables emanating from single-family detached homes or condominiums, attached residential units, and apartments.

Sanitary landfill – A landsite on which engineering principles are utilized to bury deposits of solid waste without creating nuisances or hazards to public health or safety.

Solid Waste – As defined in 9 VAC 20-80-140 of the Solid Waste Management Regulations, Department of Environmental Quality, Commonwealth of Virginia.

Toter – Town or contractor furnished wheeled waste containers.

Town manager – The town manager of the Town of Berryville, Virginia, or authorized designee.

Town planner – The assistant town manager for community development/operations of the Town of Berryville, Virginia, or authorized designee. Position also serves as zoning administrator.

Transportation – The transporting of solid waste, garbage and refuse or recyclable materials from the place of collection to a disposal facility.

Unacceptable waste – Items enumerated in Sec. 8-22 of this chapter.

Vacant Property – A lot or parcel of real property either not improved by any structure or having a structure or structures neither occupied as a residence or devoted to any other use involving the presence of employees or other persons on business days.

Waste – Useless, unwanted, or discarded materials.

Waste generator – The person or entity who actually produces the residential, commercial, household, industrial, or institutional/governmental solid waste.

Yard waste – Leaves, twigs, shrubbery, and branches less than six (6) inches in diameter.

Sec. 8-2. - Violations of chapter.

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a Class 4 misdemeanor.

Cross reference— Penalty for Class 4 misdemeanor, § 1-11.

Sec. 8-3. - Policies and procedures

The Town Council may by ordinance establish policies regarding the collection of solid waste and yard waste and may also by ordinance authorize the town manager to adopt procedures regarding the collection of solid waste and yard waste that are not inconsistent with this chapter.

Section 8-4. - Unlawful accumulations.

- (a) It shall be unlawful for any owner or occupant of any premises within the town to allow solid waste, garbage, refuse, recyclable materials, ashes, trash, litter or other substances which might endanger the health of other residents of the town to accumulate on such premises.
- (b) The owner of any property in the town shall remove accumulations referred to in subsection (a) above from such property at intervals as may be prescribed by the town manager or designee. Reasonable notice of the date fixed by the town manager for such removal shall be given by mail or delivery of a written notice to the owner of such property.
- (c) Upon the failure of the owner of property to remove solid waste, garbage, refuse, recyclable materials, ashes, trash, litter and other substances which might endanger the health of other residents of the town, as provided in the notice given pursuant to subsection (b) above, the town manager may have such refuse, garbage, trash, litter and other substances removed and bill the owner for the work. Upon the owner's failure to pay such bill by tax billing time, such bill shall be placed upon the tax bill of the owner so delinquent and collected as taxes are collected.

(Code 1971, §§ 8-1, 8-3)

Cross reference— Open storage of inoperative vehicles in certain zoning districts, § 13-30; abandoned or discarded refrigerators or other airtight containers, § 13-31; cutting and removal of weeds and other foreign growth on vacant property, § 13-32; maintenance of property abutting Town Run, § 13-33.

State Law reference— Authority for above section, Code of Virginia, § 15.2-901.

Sec. 8-5. - Disposal in town of refuse, garbage, trash etc., accumulated outside town.

It shall be unlawful and a Class 3 misdemeanor for any person to place, dump or otherwise dispose of solid waste, refuse, garbage, trash, litter, recyclable materials or any other unsightly matter that has been accumulated or collected outside the corporate limits of the town at any place within the town.

(Ord. of 2-13-73; Ord. of 2-13-79, § 8-15)

Cross reference— Penalty for Class 2 misdemeanor, § 1-11.

State Law reference – Authority for above section, Code of Virginia, § 15.2-928

Sec. 8-6. - Upsetting, tampering and misusing litter receptacles maintained by the town.

No person shall cause the removal, upsetting, mutilation or defacing of, or tamper with any litter receptacle maintained by the town, cause the contents thereof to be spilled or to be strewn in or upon any public place or private premises, or use such receptacle for disposal of commercial/business or household refuse.

(Ord. of 2-13-01)

State Law reference— Authority for above section, Code of Virginia, Section 15.2-928.

Sec. 8-7. – Dumpsters, placement, enclosure, prohibited times for emptying.

- (a) No person shall locate any dumpster, either temporarily or permanently, in the town without an approved zoning permit. Zoning Permit applications to locate dumpsters will be reviewed in accordance with this chapter, the Zoning Ordinance, and policies and procedures established by the council.
- (b) **Effective**, all dumpsters visible from a public right-of-way shall be enclosed within an approved dumpster enclosure.
- (c) All dumpsters, and the immediate area around them, shall be kept clean and sanitary at all times. Solid waste shall be completely contained within such container, all doors of the unit shall be kept closed, and all drain plugs shall be tightly secured.
- (d) It shall be unlawful for any individual, business or corporation to empty a dumpster in town between the hours of 10:00 p.m. and 7:00 a.m. except within industrially zoned areas of the town.

State Law reference – Authority for above section, Code of Virginia, § 15.2-930

(Ord. of 1-12-99)

Sec. 8-8. – Requirements for collection vehicles

- (a) All collection vehicles shall be kept and maintained in a clean and sanitary condition, and shall be so constructed, maintained and operated as to prevent spillage of the type of solid waste, garbage and refuse, and recyclables to be transported therein. All collection vehicles used in the collection of garbage shall be constructed and maintained with watertight bodies and with covers of metallic or other rigid, impervious material, or, in the alternative, the entire bodies thereof shall be enclosed, with only loading hoppers exposed.
- (b) Special vehicles used in new or experimental methods of refuse collection may be permitted by the town manager, when such authorization is in writing.

Sec. 8-9. – Picking through contents of toters, bins, or dumpsters.

It shall be unlawful for any person to pick through, handle or interfere with the contents of any totter, bin, or dumpster under the provisions of this article. Collectors, employees of the town or other governmental agencies involved in duly authorized investigations, as well as the occupant or waste generator utilizing the totter, bin, or dumpster, shall be exempt from this prohibition.

Secs. 8-10—8-14. - Reserved.

ARTICLE II. - COLLECTION BY TOWN

FOOTNOTE(S):

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Cross reference— Department of public works responsible for refuse collection, § 2-53.

State Law reference— Local recycling and waste disposal; powers; penalties, Code of Virginia, § 15.2-928. Authority for town to regulate garbage and refuse disposal, Code of Virginia, § 15.2-927. Regulation of garbage and refuse pickup and disposal services; contracting for such services, Code of Virginia, § 15.2-930

Sec. 8-15 – Collection of garbage and refuse and recyclable materials

The town will furnish garbage and refuse and recyclable materials collection in accordance with provisions of this chapter and policies and procedures established by the council or town manager.

Sect. 8-16 - Special service areas

The council may by ordinance establish special service areas, in which the town will furnish garbage and refuse and/ or recyclables collection to qualified occupancies. The ordinance establishing a special service area will delineate boundaries of the area, establish requirements for provision of collection services, and the services provided. Upon establishment of a special service area the Town will furnish garbage and refuse and/or recyclables collection to qualified occupancies within the town's

special service area town in accordance with provisions of this chapter and policies and procedures established by the council or town manager.

Sec. 8-17. - Collection times and routes – garbage and refuse and recyclable materials.

The town manager shall establish and specify the days and hours each week when garbage and refuse and recyclable materials will be collected and the routes to be served at the times so specified.

(Ord. of 2-13-79, § 8-14)

State Law reference – Authority for above section, Code of Virginia, § 15.2-928.

Sec. 8-18. - Containers generally and preparation for collection – garbage and refuse.

- (a) All garbage and refuse to be collected by the town, except bulk refuse and appliances, shall be prepared and placed in totes in accordance with provisions of this chapter and policies and procedures established by the council or town manager.
- (b) The occupant of the premises supplied with the tote(s) to maintain it in a clean and sanitary condition.
- (c) Totes issued by the town or its contactor are the property of issuing entity. Totes shall bear address or collection identification required in accordance with provisions of this chapter and policies and procedures established by the council or town manager. Totes shall not be removed from the premises to which they are assigned.
- (d) Damaged totes reported to the town will be repaired or replaced as needed. The cost to replace or repair totes that are intentionally damaged or removed will be charged to the owners or tenants at the assigned address. In such instances, the owners or tenants will be assessed a replacement fee in accordance with provisions of this chapter and policies and procedures established by the council or town manager.
- (e) Bulk refuse and appliances to be collected by the town shall be prepared and placed for collection in accordance with the provisions of this chapter and policies and procedures established by the council or town manager.

State Law reference – Authority for above section, Code of Virginia, § 15.2-928.

(Ord. of 2-13-79, §§ 8-5, 8-7; Ord. of 11-13-90; Ord. of 10-13-98)

Sec. 8-19. – Containers generally and preparation for collection– For recyclable materials.

- (a) All recyclable materials to be collected by the town shall be prepared and placed in or beside bin(s) in accordance with provisions of this chapter and policies and procedures established by the council or town manager.
- (b) The occupant of the premises supplied with the bin(s) to maintain it in a clean and sanitary condition.

(c) Bins issued by the town or its contactor are the property of issuing entity. Bins shall bear address and/or collection identification required in accordance with provisions of this chapter and policies and procedures established by the council or town manager. Bins shall not be removed from the premises to which they are assigned.

(d) Damaged bins reported to the town will be replaced as needed. The cost to replace bins that are intentionally damaged or removed will be charged to the owners or tenants at the assigned address. In such instances, the owners or tenants will be assessed a replacement fee in accordance with provisions of this chapter and policies and procedures established by the council or town manager.

State Law reference – Authority for above section, Code of Virginia, § 15.2-928.

(Ord. of 2-13-79, § 8-9; Ord. of 10-13-98)

State Law reference – Authority for above section, Code of Virginia, § 15.2-928.

Sec. 8-20 – Reserved

Sec. 8-21. - Placement of containers on collection day - garbage and refuse and recycling.

- (a) All toters and recycling bins containing materials for collection by the town shall be set out not later than 7:00 a.m. on collection days. No toters or bins may be set out for collection more than twenty-four (24) hours before the established collection time and empty toters and bins shall be removed on the same day of collection.
- (b) Toters set out for collection shall be placed near the edge of pavement, edge of road, or in a location approved by the town manager to enable the automatic arm of the collection vehicle to pick up the toter. No collector shall enter any building for removal of garbage and refuse.
- (c) Recycling bins and cardboard bundles set out for collection shall be placed near the edge of pavement, edge of road, or in a location approved by the town manager, so they can be reached easily by the collectors. No collector shall enter any building for removal of recyclable materials.

(Ord. of 2-13-79, §§ 8-16, 8-17; Ord. of 11-13-90; Ord. of 10-13-98)

State Law reference – Authority for above section, Code of Virginia, § 15.2-928.

Sec. 8-22. - Certain solid waste and refuse and garbage not collected.

- (a) Rejected building materials, tin, contractors' waste, industrial waste, automobiles or parts thereof, including tires, shall not be collected by the town. In the event such material is found at collection points, collector shall tag the subject toter as unacceptable and notify the town manager.

- (b) Hazardous waste shall not be collected by the town. In the event such material is found at collection points, collector shall tag the subject toter as unacceptable and immediately notify the town manager. Said materials shall only be removed under the supervision of persons qualified in the handling of hazardous waste.
- (c) No livestock animal or fowl excrement shall be collected by the town. In the event such material is found at collection points, collector shall tag the subject toter as unacceptable and notify the town manager.
- (d) Ashes containing live coals shall not be collected by the town. In the event such material is found at collection points, collector shall tag the subject toter as unacceptable and immediately notify the town manager.
- (e) Other materials prohibited from collection may be established accordance with provisions of this chapter and policies and procedures established by the council or town manager.

State Law reference – Authority for above section, Code of Virginia, § 15.2-928.

Sec. 8-23. – Yard waste collection general.

The Town will furnish collection of yard waste from parcels in the town that is generated by owners or occupants in accordance with provisions of this chapter and policies and procedures established by the council or town manager.

Sec. 8-24. – Collection times and route – yard waste.

The town manager shall establish and specify the days and hours when yard waste will be collected and the routes to be served at the times so specified.

Sec. 8-25. - Containers generally and preparation for collection– For yard waste.

- (a) All yard waste to be collected by the town, shall be prepared for collection in accordance with the provisions of this chapter and policies and procedures established by the council or town manager.
- (b) Yard waste placed for collection that does not meet preparation standards or exceeds collection limits shall be tagged and left in place.
- (c) The town manager may suspend or modify yard waste preparation requirements and collection limits established in accordance with this chapter and the policies and procedures established by the council or town manager if the town manager determines such a suspension or modification necessary; provided that, the determination is made in writing, is reported to the council within fifteen (15) days of the determination, and no single such determination suspends or modifies requirements for more than ninety (90) days. Notice of such suspension or modification shall be provided to the public in accordance with standard practice of the town.

State Law reference – Authority for above section, Code of Virginia, § 15.2-928.

Sec. 8-26. – Certain yard waste not collected

- (a) Rocks and hardscape materials, large stumps, any stumps containing rocks and dirt, dirt, sod, plastic bags, grass clippings, food waste shall not be collected by the Town.
- (b) Yard waste placed for collection containing unacceptable yard waste shall be tagged and left in place.
- (c) Other materials prohibited from collection may be established accordance with provisions of this chapter and policies and procedures established by the council or town manager.

Secs. 8-27—8-35. - Reserved.

ARTICLE III. - COLLECTION BY OTHERS

Sec. 8-36. – Collection provided by others

- (a) Owners or tenants of properties that do not receive collection services provided by the town shall be responsible for securing the services of a private waste hauler.
- (b) Areas in which solid waste is stored shall be keep clean and sanitary at all times. Solid waste shall be completely contained within dumpsters or containers.
- (c) Solid waste and garbage and refuse must be removed at intervals necessary to prevent a condition that might endanger the health of residents of the town or constitute a nuisance.
- (d) Collectors must adhere to all federal, state, and local regulations relating to collection, transportation, and disposal of solid waste.

Secs. 8-37—8-45. - Reserved.

An Ordinance Repealing and Readopting Chapter 8 of the Berryville Code

BE IT ORDAINED, by the Council of the Town of Berryville, hereby repeals Berryville Code Chapter 8, Garbage and Refuse and adopts the attached Berryville Code Chapter 8, Garbage and Refuse, Recyclables, and Yard Waste; with such repeal and adoption to become effective on _____.

VOTE:

Aye:

Nay:

Abstain:

Absent:

Signed: _____
Patricia Dickinson, Mayor

Date: _____

ATTEST: _____
Harry Lee Arnold, Jr. Recorder

Date: _____

Chapter 8 - GARBAGE AND REFUSE

ARTICLE I. - IN GENERAL

Sec. 8-1. - Violations of chapter.

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a Class 4 misdemeanor.

Cross reference— Penalty for Class 4 misdemeanor, § 1-11.

Sec. 8-2. - Unlawful accumulations.

- (a) It shall be unlawful for any owner or occupant of any premises within the town to allow garbage, ashes, refuse, trash, litter or other substances which might endanger the health of other residents of the town to accumulate on such premises.
- (b) The owner of any property in the town shall remove accumulations referred to in subsection (a) above from such property at intervals to be designated by the council. Reasonable notice of the date fixed by the council for such removal shall be given by newspaper publication, mail or delivery of a written notice to each owner of property.
- (c) Upon the failure of the owner of property to remove trash, garbage, refuse, litter and other substances which might endanger the health of other residents of the town, as provided in the notice given pursuant to subsection (b) above, the town manager may have such trash, garbage, refuse, litter and other substances removed and bill the owner for the work. Upon the owner's failure to pay such bill by tax billing time, such bill shall be placed upon the tax bill of the owner so delinquent and collected as taxes are collected.

(Code 1971, §§ 8-1, 8-3)

Cross reference— Open storage of inoperative vehicles in certain zoning districts, § 13-30; abandoned or discarded refrigerators or other airtight containers, § 13-31; cutting and removal of weeds and other foreign growth on vacant property, § 13-32; maintenance of property abutting Town Run, § 13-33.

State Law reference— Authority for above section, Code of Virginia, §§ 15.1-11, 15.1-867.

Sec. 8-3. - Littering generally.

- (a) Any person who shall dump or otherwise dispose of trash, garbage, refuse, litter or other unsightly matter on a public street or highway, right-of-way, property adjacent to such street or highway or right-of-way, or on any public property of the town or private property within the town, without the written consent of the owner thereof or his agent, shall be guilty of a Class 1 misdemeanor.
- (b) When any person is arrested for a violation of this section, and the matter alleged to have been dumped or disposed of has been ejected from a motor vehicle, the arresting officer may comply with the provisions of section 10-2 of this Code in making such arrest.
- (c) When a violation of the provisions of this section has been observed by any person, and the matter

dumped or disposed of has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting such trash, garbage, refuse, litter or other unsightly matter. Such presumption shall be rebuttable by competent evidence.

- (d) Upon conviction of any person for a violation of this section, the court may suspend the imposition of any sentence on condition that the defendant volunteer his services, for such period of time as the court may designate, to remove litter from streets, highways and other public property in the town.

(Ord. of 12-12-72)

Cross reference— Penalty for Class 1 misdemeanor, § 1-11; deposit of hazardous material on streets, § 15-15.

State Law reference— Similar provisions and authority to adopt above section, Code of Virginia, §§ 33.1-346, 33.1-346.1.

Sec. 8-4. - Disposal in town of trash, garbage, etc., accumulated outside town.

- (a) It shall be unlawful and a Class 1 misdemeanor for any person to place, dump or otherwise dispose of trash, garbage, refuse, litter or any other unsightly matter that has been accumulated or collected outside the corporate limits of the town at any place within the town. This section shall not apply to a person using the public facilities of the town for the disposal of such matter, with the express permission of the town council or its designated agent.
- (b) The provisions of subsections (b) and (c) of section 8-3 shall apply to violations of this section to the same extent as if set out at length in this section.

(Ord. of 2-13-73; Ord. of 2-13-79, § 8-15)

Cross reference— Penalty for Class 1 misdemeanor, § 1-11.

Sec. 8-5. - Dumpster, defined; prohibited times for emptying.

- (a) For the purpose of this section a "dumpster" shall mean any container designed to contain refuse or garbage and which is emptied by mechanical means.
- (b) It shall be unlawful for any person to empty a dumpster in town between the hours of 10:00 p.m. and 7:00 a.m. except within industrially zoned areas of the town.

(Ord. of 1-12-99)

Sec. 8-6. - Upsetting, tampering and misusing litter receptacles maintained by the town.

No person shall cause the removal, upsetting, mutilation or defacing of, or tamper with any litter receptacle maintained by the town, cause the contents thereof to be spilled or to be strewn in or upon any public place or private premises, or use such receptacle for disposal of business or household refuse

(Ord. of 2-13-01)

State Law reference— Authority for above section, Code of Virginia, Section 15.2-927.

Secs. 8-6—8-14. - Reserved.

ARTICLE II. - COLLECTION BY TOWN

Sec. 8-15. - Report of violations of article.

If any person fails to comply with the provisions of this article, the employees of the town engaged in the collection and removal of garbage, ashes and refuse shall report such failure to the town manager.

(Ord. of 2-13-79, § 8-12)

Sec. 8-16. - Containers generally—For garbage.

- (a) All garbage, consisting of food waste and organic matter, to be collected by the town shall be placed in tied disposable plastic bags or in water-tight containers of durable construction which shall be rust-resistant, nonabsorbent, easily washable, with tight fitting covers and handles and with a capacity of not less than five (5) nor more than thirty-two (32) gallons. All such nondisposable containers shall be of such construction as to prevent disturbance by animals and entrance by insects and to allow safe handling by one collector.

- (b) The total weight of any garbage container, together with its contents, shall not exceed fifty (50) pounds.

(Ord. of 2-13-79, §§ 8-5, 8-7; Ord. of 11-13-90; Ord. of 10-13-98)

Sec. 8-17. - Same—For ashes.

- (a) Ashes to be collected by the town shall be placed separately from garbage and other refuse, in cans or other light noncombustionable containers that can be handled without coming apart. Such containers shall not be filled closer than two (2) inches to the top and shall be covered to prevent spilling.

- (b) The total weight of any container for ashes, together with its contents, shall not exceed seventy-five (75) pounds.

(Ord. of 2-13-79, §§ 8-6, 8-7)

Sec. 8-18. - Same—For other refuse.

Rubbish consisting of cans, bottles, rags, paper, weeds, leaves, grass cuttings, tree cuttings, solid waste materials from homes, stores and commercial buildings and other refuse to be collected by the town, other than that provided for in sections 8-16 and 8-17, shall be placed in cans, plastic bags or other containers that can be safely handled without coming apart, of such size, not exceeding thirty-two (32) gallons capacity, that can be handled by one collector and filled and secured so as to prevent spillage of the contents.

(Ord. of 2-13-79, § 8-8)

Sec. 8-19. - Preparation of garbage.

No person shall place any garbage in any container required by section 8-16, without first draining the liquid from such garbage and wrapping the garbage in paper or plastic.

(Ord. of 2-13-79, § 8-5)

Sec. 8-20. - Preparation of cardboard and other bulky materials.

Cardboard containers and other bulk materials to be collected by the town need not be placed in containers, but will be collected by the town if flattened and securely tied in compact bundles that can be handled by one collector. No such bundle shall exceed four (4) feet in length and fifty (50) pounds in weight.

(Ord. of 2-13-79, § 8-9; Ord. of 10-13-98)

Sec. 8-21. - Collection times and routes.

The town manager shall establish and specify the days and hours each week when town employees shall collect garbage, ashes and refuse and the routes to be served at the times so specified.

(Ord. of 2-13-79, § 8-14)

Sec. 8-22. - Placement of containers on collection day; collectors not to enter building.

- (a) All containers containing garbage, ashes or refuse for collection by the town shall be set out not later than 7:00 a.m. on collection days. No containers may be set out for collection more than twenty-four (24) hours before the established collection time and empty containers shall be removed on the same day of collection.
- (b) All containers shall be placed in such location as is specified by the town manager, so that they can be reached easily and conveniently by the collectors. No town employee or collection agent shall enter any building for the removal of garbage, ashes or refuse.

(Ord. of 2-13-79, §§ 8-16, 8-17; Ord. of 11-13-90; Ord. of 10-13-98)

Sec. 8-23. - Preparation of tree branches, brush, leaves and other yard waste.

- (a) Tree branches and brush to be collected by the town shall be securely tied in compact bundles that can be handled by one collector. No such bundle shall exceed four (4) feet in length, twelve (12) inches in diameter and fifty (50) pounds in weight.
- (b) Leaves and grass clippings to be collected by the town shall be placed in plastic bags. No such bag shall exceed fifty (50) pounds in weight.

(Ord. of 10-13-98)

Sec. 8-24. - Certain refuse not to be collected.

- (a) Rejected building materials, tin, contractors' waste, industrial waste, automobiles or parts thereof, tires, hazardous materials, such as cleaning fluids, explosives, gasoline, oil, paints, plastics, rubber cuttings or other highly flammable materials, or substances such as poisons, gases, caustics, radioactive materials or powdery earth used in filter cleaning fluids or other like refuse materials or substances shall not be collected by the town. In the event such refuse is found at collection points, the persons placing the same for collection shall be required to remove the same immediately. Radioactive materials, drugs, poisons and like substances shall be removed under the supervision of the health officer or some other qualified person.

- (b) No animal or fowl excrement shall be collected by the town and no such excrement shall be placed in any receptacle required by this article or otherwise put out or placed for collection by the town.
- (c) Ashes containing live coals shall not be collected by the town.

(Ord. of 2-13-79, §§ 8-5, 8-6, 8-10)

Garbage and Refuse, Recyclables, and Yard Waste Policy

- Draft Policy (11/26/18)
 - Draft Appendix 1:
 - Draft Appendix 2:
 - Draft Appendix 3:
 - Draft Appendix 4:
 - Draft Routes and Times
- Draft Ordinance for adoption

Garbage and Refuse, Recyclables, and Yard Waste Policy

Draft 11/26/18

Authorization

This policy is adopted in accordance with Section 8-3 of the Berryville Code.

Purpose

The Town of Berryville regulates the storage, collection, and transportation of solid waste within its corporate boundaries in order to promote and protect the health, safety, and welfare of its residents and visitors. Such activities shall be regulated in accordance with federal, state, and local law.

Policy

Applicable provisions of the Berryville Code, procedures contained herein, and determinations made by the Council or Town Manager in accordance with Berryville Code or this Policy; shall constitute local requirements for the storage and collection of solid waste in town and its transportation from town. The Town of Berryville reserves the right to modify requirements, including items collected and collection routes and schedules.

Procedures:

I. Garbage and Refuse, Recyclables, and Yard Waste Collection

A. Garbage and Refuse Collection

1. Single-family residential uses (excluding bulk and appliance collection)

The Town of Berryville provides once per week curbside garbage and refuse collection for single-family detached, duplex, and townhouse, uses in the town in accordance with provisions of Chapter 8 of the Berryville Code and policies and procedures established by the Council or Town Manager.

Garbage and refuse shall be prepared and placed for collection in accordance Appendix 1 of this policy.

Toters and toter decals will be issued in accordance with Appendix 2 of this policy.

Toter decals issued in accordance with Appendix 2 of this policy must be affixed to the front of toters. The address to which the toter is assigned must be written in permanent ink on the decal.

Collection will occur in accordance with routes and schedules approved by the Town Manger.

2. Single-family residential uses (Bulk Collection)

The Town of Berryville provides once per week curbside bulk refuse collection for single-family detached, duplex, and townhouse, uses in the town in accordance with provisions of Chapter 8 of the Berryville Code and policies and procedures established by the Council or Town Manager.

Bulk refuse shall be prepared and placed for collection in accordance Appendix 1 of this policy.

Collection will occur in accordance with routes and schedules approved by the Town Manger.

3. Single-family residential uses (Appliance Collection)

The Town of Berryville provides once per week curbside appliance collection for single-family detached, duplex, and townhouse, uses in the town in accordance with provisions of Chapter 8 of the Berryville Code and policies and procedures established by the Council or Town Manager.

Appliances shall be prepared and placed for collection in accordance Appendix 1 of this policy.

Stickers issued in accordance with Appendix 1 of this policy must be affixed to the front of appliance to be collected.

Collection will occur in accordance with routes and schedules approved by the Town Manger.

4. Commercial/Business, multi-family & institutional uses:

The Town of Berryville provides once or twice per week curbside garbage and refuse collection for designated commercial/business occupancies,

multi-family, and institutional occupancies in the town in accordance with provisions of Chapter 8 of the Berryville Code and policies and procedures established by the Council or Town manager.

Service is provided to qualified uses within the Special Service Area in accordance with the Special Service Area Ordinance adopted by the Council on [REDACTED] which is found in Appendix 4 of this policy.

Garbage and refuse shall be prepared and placed for collection in accordance Appendix 1 of this policy.

Toters and toter decals will be issued in accordance with Appendix 2 of this policy.

Toter decals issued in accordance with Appendix 2 of this policy must be affixed to the front of toters. The address to which the toter is assigned must be written in permanent ink on the decal.

Collection will occur in accordance with routes and schedules approved by the Town Manger

B. Recyclables Collection

1. Single-family residential uses

The Town of Berryville provides once per week curbside recyclable materials collection for single-family detached, duplex, and townhouse uses in the town in accordance with provisions of Chapter 8 of the Berryville Code and policies and procedures established by the Council or Town Manager.

Recyclable materials shall be prepared and placed for collection in accordance with Appendix 1 of this policy.

Bins and bin decals will be issued in accordance with Appendix 2 of this policy.

Bin decals issued in accordance with Appendix 2 of this policy must be affixed to the front of bin. The address to which the bin is assigned must be written in permanent ink on the decal.

Collection will occur in accordance with routes and schedules approved by the Town Manager.

2. Commercial/Business, multi-family & institutional uses

The Town of Berryville provides once per week curbside recyclable materials collection for designated commercial/business, multi-family, and institutional uses in the town in accordance with provisions of Chapter 8 of the Berryville Code and policies and procedures established by the Council or Town Manager.

Service is provided to qualified uses within the Special Service Area in accordance with the Special Service Area Ordinance adopted by the Council on [REDACTED] which is found in Appendix 4 of this policy.

Recyclable materials shall be prepared and placed for collection in accordance Appendix 1 of this policy.

Bins and bin decals will be issued in accordance with Appendix 2.

Bin decals issued in accordance with Appendix 2 of this policy must be affixed to the front of toters. The address to which the bin is assigned must be written in permanent ink on the decal.

Collection will occur in accordance with routes and schedules approved by the Town Manager.

C. Yard Waste Collection

Single-family residential uses

The Town of Berryville provides once per week curbside yard waste collection for single-family detached, duplex, and townhouse uses in the town in accordance with provisions of this chapter and policies and procedures established by the Council or Town Manager.

Yard waste shall be prepared and placed for collection in accordance Appendix 1 of this policy.

Collection will occur in accordance with routes and schedules approved by the Town Manager.

II. Dumpsters

Dumpsters shall be screened and maintained in accordance provisions of Chapter 8 and this policy. Appendix 3 of this policy provides specific requirements for permitting, siting, screening, and maintenance.

Garbage and Refuse, Recyclables, and Yard Waste Policy

Appendix 1 Garbage and Refuse, Recyclables, and Yard Waste Preparation and Placement for Collection by Town Draft 11/26/18

I. Garbage and refuse

A. Garbage and refuse accepted for collection

As a part of its garbage and refuse curbside collection program, the Town or its contractors will collect garbage and refuse as defined in Chapter 8 of the Berryville Code and which is accepted by the Fredrick County, Virginia sanitary landfill.

Accepted items include household garbage and refuse such as paper, cartons, debris, food packaging, clothing, and waste resulting from the handling, preparation, cooking, serving, or consumption of food

B. Garbage and refuse not collected

Neither the Town nor its contractors will collect solid waste identified as uncollectable in Section 8-22 of the Berryville Code or any waste which is prohibited from being disposed of in the Fredrick County, Virginia sanitary landfill.

Items that will not be collected include: hazardous waste, construction debris, industrial waste, yard waste, solid waste generated or collected outside of the corporate limits, livestock or fowl excrement, and ashes containing active coals.

C. Preparation and placement for collection – garbage and refuse (excluding bulk refuse and appliances).

1. All garbage and refuse to be collected by the town shall be placed in securely closed disposable plastic bags and placed in a toter provided by the Town or its contractor in accordance with provisions of the Berryville Code and this Policy.
2. Garbage and refuse shall be placed inside the toter in such a manner that allows for the integrated lid to completely close.
3. All toters containing materials for collection by the town shall be set out not later than 7:00 a.m. on collection days. No toters may be set out for collection more than twenty-four (24) hours before the established collection time and empty toters shall be removed on the same day of collection.
4. Toters set out for collection shall be placed near the edge of pavement, edge of road, or in a location approved by the town manager to enable the automatic arm of

the collection vehicle to pick up the totter. No collector shall enter any building for removal of garbage and refuse.

D. Preparation and placement for collection – bulk refuse

1. Party desiring the bulk refuse to be collected (requestor) must contact the Berryville Business Office to schedule a collection. The Business Office is to be provided with the requester's name, address, contact information, and a description of the items to be collected.
2. If the Town Business Office staff determines that the items described are acceptable for bulk collection, then a collection date is communicated to the requester.
3. Requester must place items to be collected on their property at a point close to the fronting street right-of-way or other location as directed by the Town.
4. Items may not be placed out for collection more than 24 hours before scheduled collection.
5. No items placed out for collection may be placed on streets, sidewalks, or on the property of others, in storm drainage ditches, or in front of fire hydrants.
6. Any items deemed unacceptable for collection will be left by collectors and must be removed or collected by the requestor within 24 hours of the determination that they would not be collected.

E. Preparation and placement for collection - appliances

1. Party desiring appliance collection (requester) must purchase an appliance collection sticker from the Town Business Office.
2. Requester must provide the Town Business Office with requester's name, address, contact information and a description of the appliance to be collected and schedule a collection date.
3. Requester must affix the collection sticker to the appliance to be collected and place it on their property at a point close to the fronting street right-of-way or other location as directed by the Town.
4. Appliances must be empty, may not be placed out for collection more than 24 hours before scheduled collection, and must be secured as required by law to prevent injury or entrapment.
5. No appliances placed out for collection may be placed on streets, sidewalks, or on the property of others, in storm drainage ditches, or in front of fire hydrants.
6. Any items deemed unacceptable for collection will be left by collectors and must be removed or collected by the requestor within 24 hours of the determination that they would not be collected.

II. Recyclables

A. Recyclables accepted for collection

As a part of its recyclables curbside collection program, the Town or its contractors will collect recyclables as determined in the contract between the Town and its collection contractor.

Accepted items include such as newspaper, envelopes, phone books, magazines, file folders poster board, cardboard boxes milk cartons, plastics #1 - #7, aluminum cans, steel cans, clear and colored glass beverage containers and food jars. All items must be empty, clean, and dry.

B. Recyclables not collected

Neither the Town nor its contractors will collect contaminated recyclables, batteries, sheet plastic, plastic bags, bubble wrap, Christmas lights, coat hangers, Styrofoam, rubber balls, diapers, electrical cords, food waste, food wrap, garden hose, syringes, razor blades, tires, sports equipment, stuffed animals, waxed cartons, wood/yard waste, light bulbs or tubes, computers or electronics, toxic material containers, paint, or any solid waste restricted from collection as a part of any other part of its waste collection program.

C. Preparation and placement for collection-- Recyclable materials (except cardboard)

1. Recyclables to be collected by the town shall be placed in a bin provided by the town or its contractor in accordance with provisions of the Berryville Code and this Policy. All liquids shall be drained from the item prior to placement in the container.
2. All items placed in the bin shall be done in a manner to prevent escape as a result of wind and weather conditions.
3. All bins containing materials for collection by the town shall be set out not later than 7:00 a.m. on collection days. No bins may be set out for collection more than twenty-four (24) hours before the established collection time and empty bins shall be removed on the same day of collection.
4. Bins set out for collection shall be placed near the edge of pavement, edge of road, or in a location approved by the town manager to enable the automatic arm of the collection vehicle to pick up the toter. No collector shall enter any building for removal of recyclable materials.

D. Preparation and placement for collection - Recyclable materials - Cardboard

1. Cardboard containers to be collected by the town or its contractor for recycling, need not be placed in containers but will be collected if flattened and securely tied in compact bundles that can be handled by one collector. No such bundle shall exceed four (4) feet in length and fifty (50) pounds in weight.

2. Bundles shall be placed beside bins. No collector shall enter any building for removal of cardboard.
3. No cardboard may be set out for collection more than twenty-four (24) hours before the established collection time

III. Yard waste

A. Yard waste accepted for collection

As a part of its yard waste curbside collection program, the Town or its contractors will collect yard waste generated by the owner or occupant of properties within Town.

Accepted items include: small tree branches, small stumps free of dirt and rocks, shrubbery, and brush.

B. Yard waste not collected

Neither the Town nor its contractors will collect rocks and hardscape materials, large stumps, any stumps containing rocks or dirt, dirt, sod, plastic bags, grass clippings or food waste.

C. Preparation and placement for collection- Yard waste

1. Small tree branches, shrubbery, and brush to be collected by the town shall be securely tied in compact bundles that can be handled by one collector. No such bundle shall exceed four (4) feet in length, twelve (12) inches in diameter and fifty (50) pounds in weight. Large branches to be collected shall not exceed four (4) feet in length, six (6) inches in diameter and fifty (50) pounds in weight. Bundles and large branches to be collected by the town shall be placed near the edge of pavement, or edge of road, or in a location approved by the town manger so they can be easily reached by the collectors. No bundles placed out for collection may be placed on streets, sidewalks, or on the property of others, in storm drainage ditches, or in front of fire hydrants.
2. Leaves to be collected by the town during the annual leaf collection period shall be piled adjacent to street curbs, but shall not cover any portion of a sidewalk, gutter pan, StreetSide ditch, drainage improvement, or fire hydrant. Leaf piles shall contain no rocks or other items that might damage the leaf collection equipment. During the annual leaf collection period leaves will be collected by the town in accordance with standards and a schedule approved by the town manager and posted on the town website.
3. Loose yard waste, including leaves, to be collected by the town shall be placed in paper bags and placed near the edge of pavement, edge of road, or in a location approved by the town manager, so they can be reached easily by the collectors. No such bag may exceed fifty (50) pounds in weight. All paper bags containing loose yard waste for collection by the town shall be set out not later than 7:00 a.m. on

collection days. No such bags may be set out for collection more than forty-eight (48) hours before the established collection time. No bags placed out for collection may be placed on streets, sidewalks, or on the property of others, in storm drainage ditches, or in front of fire hydrants.

4. No single collection for any parcel, excluding leaves to be collected by leaf vacuum during the annual leaf collection period, may exceed one hundred (100) pounds.
5. The town manager may suspend or modify yard waste preparation requirements and collection limits if he determines such a suspension or modification necessary; provided that, the determination is made in writing, is reported to the council within fifteen (15) days of the determination, and no single such determination suspends or modifies requirements for more than ninety (90) days.

Garbage and Refuse, Recyclables, and Yard Waste Policy

Appendix 2 Issuance of Toters, Bins, and Decals Draft 11/26/18

I. Toters (Garbage and Refuse)

The Town will issue, or permit to be issued, toters in accordance with the following schedule:

Type of use *	Collection Frequency (Per Week)	Maximum Number of Toters Issued
Single-family	1	2
Attached residential	1	2
Multifamily	N/A	N/A
Commercial (non restaurant)	1	2
Commercial (restaurant)	2	2
Institutional	1	2
Industrial	N/A	N/A

* Specific use of property must qualify for curbside collection by the Town.

Garbage and refuse generation by any use which exceeds the capacity of permitted containers shall be disposed of by the occupant. Such disposal shall be accomplished in a manner consistent with applicable law and policy.

II. Bins (Recyclables)

The Town will issue, or permit to be issued, toters in accordance with the following schedule:

Type of use *	Collection Frequency (Per Week)	Maximum Number of Bins Issued
Single-family	1	No limit
Attached residential	1	No limit
Multifamily	N/A	N/A
Commercial (non restaurant)	1	No limit
Commercial (restaurant)	1	No limit
Institutional	1	No limit
Industrial	N/A	N/A

* Specific use of property must qualify for curbside collection by the Town.

III. Toter and Bin Decals

The Town will issue a decal for each toter and bin issued in accordance with this policy. The party to which toters or bins are issued must affix decal on front of toter or bin and using permanent ink and write the address to which the toter or bin is assigned.

DIRECTION PROVIDED
BY Mayor DICKINSON

APPENDIX

Trash Collection Policies

	Curbside Service			Notes
	Frequency	Trash Containers	Recycle Bins	
Single Family Homes (DR-1-2-3-4)	Once Weekly	Max 2 Bins	No Limit	3 rd bin is \$20 per year
Town Houses (AR)	Once Weekly	Max 2 Bins	No Limit	3 rd bin is \$50 per year Town House HOA may request dumpster service (at no cost to HOA), requires town manager approval.
Business (Proportional)	Twice Weekly	Max 2 Bins	No Limit	No additional bins are permitted.
Home Occupations, Home Offices	Once Weekly	Max 2 Bins	No Limit	3 rd bin is \$50 per year The amount of trash must closely approximate the volume of refuse generated by a typical residential unit.
Churches, Organizations and Government Agencies	Once Weekly	Max 2 Bins	No Limit	3 rd bin is \$50 per year Amount of refuse must closely approximate the volume of refuse generated by a typical residential unit. If the volume is greater, the business must make other arrangements for trash pickup.

	No curbside service offered
Apartments (M1)	Residential apartment complexes must have dumpster service, provided by the town.
Businesses (Shopping Centers and Nursing Homes) and other businesses by SUP	If the amount of refuse is greater than the volume of refuse generated by a typical residential unit, the business must make private arrangements for trash pickup.
Commercial (C1, C2, U, B, B, B, B)	Commercial trash pickup is not provided by the town.

Garbage and Refuse, Recyclables, and Yard Waste Policy

Appendix 3 Dumpsters Draft 11/26/18

I. Permit to locate dumpster - generally

- A. No person may locate any dumpster, either temporarily or permanently, in the town without an approved zoning permit.
- B. Applications to locate dumpsters, along with any application fees, shall be submitted to the Zoning Administrator.
- C. The Zoning Administrator will review applications for compliance with Berryville Code, Berryville Zoning Ordinance, and this Policy and will issue zoning permits when all requirements are met.

II. Temporary placement or location of dumpsters:

- A. Placement of a dumpster shall be deemed temporary if said placement does not exceed 180 days.
- B. Within street right-of-way (Town) – Zoning Administrator may condition approval on provision of safety measures deemed necessary, proof of insurance, and maximum time dumpster may remain on right-of-way. No dumpster may be located in the public right-of-way within the Special Flood Hazard Area as identified on the Flood Insurance Rate Map.
- C. Within street right-of-way (VDOT) – Zoning Administrator may condition approval on VDOT approval, provision of safety measures deemed necessary, proof of insurance, and maximum time dumpster may remain on right-of-way. No dumpster may be located in the public right-of-way within the Special Flood Hazard Area as identified on the Flood Insurance Rate Map.
- D. On private property or public property not within street rights-of-way – Zoning Administrator may condition approval on provision of safety measures deemed necessary and maximum time dumpster may remain on property. No dumpster may be located within the Special Flood Hazard Area as identified on the Flood Insurance Rate Map unless the Zoning Administrator determines that necessary steps will be taken to secure the dumpster in a manner that will prevent it from becoming a hazard during a flood event.

III. Permanent placement or location of dumpsters (in excess of 180 days):

- A. Placement of a dumpster shall be deemed permanent if said placement exceeds 180 days.

- B. Within street right-of-way (Town) - No dumpster may be placed or located in a street right-of-way for a period exceeding 180 days.
- C. Within street right-of-way (VDOT) – No dumpster may be placed or located in a street right-of-way for a period exceeding 180 days.
- D. On private property or public property not within street rights-of-way – Zoning Administrator will condition approval upon siting and construction of any required screening or enclosure. No dumpster may be sited in such a way that the collection of solid waste or recyclable materials will impede pedestrian or vehicular traffic on public rights-of-way or otherwise create a safety hazard. No dumpster may be located within the Floodway portion of the Special Flood Hazard Area as identified on the Flood Insurance Rate Map unless the Zoning Administrator determines that necessary steps will be taken to secure the dumpster in a manner that will prevent it from becoming a hazard during a flood event.

IV. Maintenance of dumpsters, dumpster pads, dumpster enclosures, and surrounding area

- A. All dumpsters, and the immediate area around them, shall be kept clean and sanitary at all times.
- B. Solid waste shall be completely contained within such container, all doors of the unit shall be kept closed, and all drain plugs shall be tightly secured.
- C. Solid waste shall be removed at intervals necessary to prevent a condition that might endanger the health of residents of the town or constitute a nuisance.

V. Dumpster Enclosure Minimum Standards

- A. Dumpster enclosures erected and maintained within the Town shall meet the following minimum standards:

1. Properties Zoned and Used for Residential, Commercial, or Institutional Use

a. Slab

4" inch concrete pad with wire mesh installed on a 4" course of compacted 21B stone

b. Walls

Enclosure walls must consist of opaque wood fence (either solid or board of board) or masonry walls six feet in height with two openings: one large enough to permit siting and servicing the dumpster or dumpsters and the other pedestrian entrance.

c. Gates

The two enclosure wall openings must be screened by gates which are also opaque and can be securely closed when not in use.

d. Protective bollards

Protective bollards at least 3 feet in height must be installed on the front (side of large opening for servicing dumpsters) corners of the enclosure.

2. Properties Zoned for Business or Industrial Use

a. Slab

4" inch concrete pad with wire mesh installed on a 4" course of compacted 21B stone

b. Walls

Enclosure walls must consist of chain link fence with opaque slats, opaque wood fence (either solid or board of board) or masonry walls six feet * in height with two openings: one large enough to permit siting and servicing the dumpster or dumpsters and the other pedestrian entrance.

* Administrative Body or Zoning Administrator may require height of fence or wall to be greater than six feet but no greater than ten feet.

c. Gates

The two enclosure wall openings must be screened by gates which are also opaque and can be securely closed when not in use.

d. Protective bollards

Protective bollards at least 3 feet in height must be installed on the front (side of large opening for servicing dumpsters) corners of the enclosure.

APPENDIX 4

An Ordinance Establishing a Special Service Area for Garbage and Refuse and Recyclables Collection

BE IT ORDAINED, by the Council of the Town of Berryville, that in accordance with Section 8-16 of the Berryville Code, the Council hereby establishes a Special service area to provide for curbside collection of garbage and refuse and recyclables on properties zoned C General Commercial District, C-1 Commercial District, and R-3 Residential District.

Properties within the Special service area are eligible for curbside collection of garbage and refuse and recyclables in accordance with Chapter 8 of the Berryville Code and the Town's Garbage and Refuse, Recyclables, and Yard Waste Collection Policy; provided that the Town Council determines that lot size, development pattern, or access limitation preclude property owners or occupants from siting a dumpster of an appropriate size for the property's needs or the property is being used for single-family or attached residential occupancy.

The Council reserves the right to place any limitations on curbside collection within the Special service area that it deems necessary.

VOTE:

Aye:

Nay:

Abstain:

Absent:

Signed:

Patricia Dickinson, Mayor

Date: _____

ATTEST:

Harry Lee Arnold, Jr. Recorder

Date: _____

Establishment of Collection Routes and Times

Draft 11/26/18

Garbage and Refuse

Curbside collection of residential garbage and refuse, as defined and permitted in Chapter 8 of the Berryville Code and the Garbage and Refuse, Recyclables, and Yard Waste Policy, will occur on the following schedule as conditions permit:

- Areas east of Buckmarsh Street (including the east side of Buckmarsh Street) will be collected on Thursdays.
- Areas west of Buckmarsh Street (including the west side of Buckmarsh Street) will be collected on Fridays.

Curbside collection of commercial garbage and refuse, as defined and permitted in Chapter 8 of the Berryville Code and the Garbage and Refuse, Recyclables, and Yard Waste Policy, will occur on the following schedule as conditions permit:

- Customers receiving once per week collection will have their waste collected on Fridays
- Customers receiving twice per week collection will have their waste collected on Tuesdays and Fridays.

Recyclables

Curbside collection of recyclables, as defined and permitted in Chapter 8 of the Berryville Code and the Garbage and Refuse, Recyclables, and Yard Waste Policy, will occur on the following schedule as conditions permit:

- Areas east of Buckmarsh Street (including the east side of Buckmarsh Street) will be collected on Thursdays.
- Areas west of Buckmarsh Street (including the west side of Buckmarsh Street) will be collected on Fridays.

Bulk Refuse and Appliances

Collection of bulk refuse and appliances as defined and permitted in Chapter 8 of the Berryville Code and the Garbage and Refuse, Recyclables, and Yard Waste Policy, will occur on the following schedule as conditions permit:

- Collection will occur on Wednesdays

Yard Waste

Collection of yard waste, as defined and permitted in Chapter 8 of the Berryville Code and the Garbage and Refuse, Recyclables, and Yard Waste Policy, will occur on the following schedule as conditions permit:

- Collection will occur on Mondays

The Town reserves the right to modify routes and collection times at any time. Routes and collection times may be modified because of inclement weather, holidays, mechanical failures, or other reasons deemed appropriate by the Town Manager or designee.

Approved:

Keith R. Dalton, Town Manager

Date

An Ordinance Adopting a Garbage
and Refuse, Recyclables, and Yard Waste Policy

BE IT ORDAINED, by the Council of the Town of Berryville, in accordance with Section 8-3 of the Berryville Code, that the Council hereby adopts the attached Garbage and Refuse, Recyclables, and Yard Waste Policy; with said policy becoming effective on _____.

BE IT FURTHER ORDAINED, by the Council that it hereby authorizes the Town Manager to make amendments to the Garbage and Refuse, Recyclables, and Yard Waste Policy; provided that such amendments are submitted to the Council within fifteen (15) days of issuance and that the Council will then either adopt, adopt as amended, or reject said amendments within sixty (60) days of issuance by the Town Manager. Amendments not adopted or adopted as amended within sixty (60) days of issuance by the Town Manger shall be deemed rejected and shall cease to be in effect.

VOTE:

Aye:

Nay:

Abstain:

Absent:

Signed: _____
Patricia Dickinson, Mayor

Date: _____

ATTEST: _____
Harry Lee Arnold, Jr. Recorder

Date: _____



Berryville Police Department

101 Chalmers Ct., Suite A, Berryville, Virginia 22611

policeadmin@berryvilleva.gov

(540) 955-3863 (540) 955-0207 (Fax)

W. Neal White – Chief of Police

Public Safety Committee

November 28, 2018

Report of Chief

Equipment

The new mobile data terminals (MDT) have been received and they are now in service in the vehicles. Updating the technology has already shown marked improvement in the operation of other software programs that we utilize within the vehicles. One primary example is the operation of on car video cameras which had become a technological challenge with the older MDT's.

Toy Drive

The department is in the process of collecting new toys for families in Berryville and Clarke County. The toys will be delivered to Clarke County Social Services for distribution. We have already experienced a tremendous response from the community and I anticipate that this generosity will continue as the holiday season draws closer.

Chapter 20

In this packet you will find a draft version of a policy regulating special events and demonstrations. Staff has reviewed this draft several times and legal counsel is still reviewing the document. The intention with this review is to first establish the policy and then make revisions to Chapter 20 so that it conforms to the policy. Further, the intention would be to make both documents ready simultaneously for presentation to the full Council for adoption.



Regulations for Special Events and Demonstrations

Version 5_11/2018

The following document establishes new guidelines concerning processes associated with events and demonstrations conducted on public property. These guidelines and processes reference existing ordinances of the Town of Berryville, State Code, Planning and Zoning Ordinances of the Town of Berryville and Clarke County Building Department Regulations.

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Regulations for Special Events and Demonstrations on Town Property

I. PURPOSES

To establish procedures and standards governing the use of public property by non-Town organizations and individuals for the purpose of conducting events, and to ensure the preservation of public convenience in the use of town streets and outdoor areas, the preservation of public order and safety, and the defraying of administrative expenses associated with certain types of uses.

To protect the right of persons and groups to organize and participate in peaceful assemblies to express their political, social, religious, or other views on Town streets, sidewalks, other public ways, parks, and other public lands, subject to reasonable restrictions designed to protect public safety, persons, and property, and to accommodate the interest of persons not participating in such assemblies in not having their ability to use Town streets, sidewalks, and other public ways to travel to their intended destinations, Town park for recreational purposes, and other Town lands for their intended purposes unreasonably impaired.

II. TOWN DEPARTMENTS/ORGANIZATIONS AFFECTED

The Town Manager, directly or through the Town Clerk, shall manage the scheduling of events on Town-owned property. The **Town Planning Department**, Police, Public Works, **Virginia Department of Transportation (VDOT)**, John H. Enders Fire & Rescue, and Clarke County Fire & Rescue shall have an opportunity to review event applications and propose reasonable time, place and manner modifications thereto and conditions thereon in keeping with these ordinances and the purposes stated in section I above.

III. POLICY

A. Definitions

"Advertising" and "Advertisement" shall mean anything containing any words, symbols, pictures and/or logos directing attention to any business or to any commodity or service for sale to the public; excluding, however: (i) a price sign, a sign or logo identifying the name of a vendor and item being sold by that vendor, when such signs are located within an area specifically delineated as part of an event and the vendor holds a valid permit, (ii) a sign or logo naming the sponsor(s) of an event, and (iii) stands or vehicles with semi-permanent or permanently installed signs, if being used for authorized recreational activities or events.

"Commercial Activity" means performing services or providing goods that can normally be obtained from private enterprise.

"Community event" shall mean events designated by Town Council or **Town Manager** as "community events" from time to time.

"Demonstration" shall refer to non-commercial expressions protected by the First Amendment of the United States Constitution (such as picketing, political marches, speechmaking, vigils, walks, etc.) conducted on public property, the conduct of which has the effect, intent or propensity to draw a crowd or onlookers. This term does not include casual activity by persons which does not have the intent or propensity to attract a crowd or onlookers.

"Event" may refer to ~~either~~ a demonstration, community event or a special event, or to demonstrations, community events and special events, collectively.

"Events Liaison" means the Town Clerk, or another person designated by the Town Manager. ~~from time to time.~~

"Open burning and open fire" have the same meaning as set forth in the Berryville Town Code § 6-1.

"Open flame" means fire whose flame is supported by wick, oil or other slow burning means to sustain itself. "Open flame" includes, but is not limited to, flame producing devices such as candles, torches, and juggling or other fire artist equipment; provided, however, that "open burning and open fire" and "open flame" shall not include handheld candles when used for ceremonial purposes, provided that they are not held or used in an intimidating, threatening, dangerous or harmful manner.

"Person" shall mean and include any individual, corporation, Limited Liability Company, partnership, limited partnership, association, company, business, non-profit company, trust, joint venture or other legal entity.

"Prohibited items" shall mean (i) all items prohibited by law from being held, carried, displayed, worn or otherwise used in public, (ii) items banned from public or park lands, (iii) any BB guns, pellet guns, air rifles or pistols, paintball guns, pellet guns, nun chucks, tasers, stun guns, heavy gauge metal chains, lengths of lumber or wood, poles, bricks, rocks, metal beverage or food cans or containers, glass bottles, axes, axe handles, hatchets, ice picks, acidic or caustic materials, hazardous, flammable, or combustible liquids, dogs (except service dogs), skateboards, swords, knives, daggers, razor blades or other sharp items, metal pipes, pepper or bear spray, mace, aerosol sprays, catapults, wrist rockets, bats, sticks, clubs, drones, explosives, fireworks, open fire or open flames, or other item considered an "implement of riot", (iv) any items capable of inflicting bodily harm when these items are held or used in an intimidating, threatening, dangerous or harmful manner, and (v) law enforcement or military-like uniforms or uniform-like clothing, badges, insignia, shields, hats, helmets, masks, equipment and other items that when held, carried, displayed or worn tend to suggest or imply that the wearer is a current member of law enforcement, the military, a private militia, or other public safety organization, such as a fire department or emergency medical services agency.

"Special event" shall refer to sports events, pageants, celebrations, historical reenactments, circus, carnivals, music festivals and other entertainments, exhibitions, dramatic presentations, fairs, festivals, races (i.e., runs/walks), block parties, parades and other, similar activities, conducted on public property, which (i) are not demonstrations, and (ii) are engaged in by 25 or more persons. The term "special event" shall be construed to include a community event or private organization celebration held in or on town-owned property and is attended by more than 25 people. The term "special event" shall *exclude* gatherings of ten or more people in a park for general recreational or sports activities.

"Sponsor" shall mean the person (as defined above) or persons who sign, or whose authorized representative(s) sign, an application for an event permit and who will be responsible under the permit, if issued, for ensuring that the event will be conducted in accordance with these regulations. Where a purported sponsor is not a legal entity, the sponsor shall be the individual(s) signing the permit application.

"Streets" shall mean public streets, sidewalks, walkways, alleys, lanes and highways of the Town.

"Structure" shall mean and include props and displays (such as, but not limited to: crates, crosses, theaters, cages, and statues); furniture and furnishings (such as desks, chairs, tables, bookcases cabinets, platforms, podiums and lecterns); shelters (such as tents, boxes, inflatables, booths and other enclosures); wagons and carts; and all other similar types of property which might tend to harm Town land or street areas, including aesthetic interests.

B. Permit Requirements

- (1) Events may be held only pursuant to a permit issued by the Town Manager, with the following exceptions: events involving fewer than 25 persons where no space is requested to be reserved, or demonstrations which occur without prior planning or announcement for the purpose of an immediate and spontaneous response to a news-worthy occurrence, may take place without a permit if (i) it is otherwise a lawful assembly conducted in accordance with the regulations set forth in sections III E(1) through III E(3) and sections III E(6) through III E(15) herein, (ii) the group will not unreasonably interfere with other events scheduled or taking place concurrently, and (iii) the demonstration does not block streets or access to Town property; and (iv) the demonstration does not pose a threat to public safety. Without limitation of the foregoing, demonstrations taking place in response to a news-worthy occurrence more than 48 hours after such news-worthy occurrence will not qualify as spontaneous demonstrations, even without prior planning or announcement, and sponsors of events outside this window must apply for and receive a permit for an event expected to draw 25 or more persons.
- (2) Wherever these regulations specify that a particular use or activity may be conducted only pursuant to a permit, such permit shall be required in order for that use or activity to be lawful.

C. Permit Applications

- (1) Permit applications may be obtained from the Events Liaison. ~~Subject to obtaining a tent permit where required, tents may be used during an event.~~ Inquiries regarding use of Rose Hill Park ~~will~~may also be directed to the Events Liaison.
- (2) Applications for permits shall be submitted by the event sponsor in writing, on a form provided by the Town, so as to be received by the Events ~~Coordinator~~ Liaison at least (i) thirty (30) business days in advance of any event, if not requiring street closure, removal of parking, or provision of public safety personnel, or (ii) sixty (60) business days in advance of any event, if requiring street closure, removal of parking, or provision of public safety personnel. These periods may be reduced by the Town Manager with respect to demonstrations only if, upon consultation with the Police Chief, Fire Chief or other appropriate public safety officials, the size and nature of the proposed demonstration will not reasonably require commitment of Town resources or personnel in excess of that which are normally available or which can reasonably be made available within the necessary time period, and review of the permit by all appropriate personnel for the purposes contemplated by these ordinances is feasible within the necessary time period. In all cases, sponsors are encouraged to submit requests for permits as far in advance of any event as possible (but not to exceed 6 months). A permit may be denied if, taking into account the size and nature of the proposed event, the Town Manager does not have sufficient time to evaluate the proposed event's potential impact upon public safety, persons and property, and the interests of persons not participating in the event being able to use Town streets, sidewalks, and other public ways to travel to their intended destinations, Town parks for recreational purposes, and other Town lands for their intended purposes.
 - a. Each application shall specify (i) the name, address and telephone number of a contact person for the sponsor, (ii) the nature of the event, (iii) the date when the event is to be conducted, (iv) the times when the event is to begin and end, and the approximate times when assembly for, and disbanding of, the event are to take place, (v) the location(s) of the event and any assembling or disbanding areas, as well as any related stands or other structures to be used in the event, (vi) the approximate number of persons, animals, and vehicles that will participate in the event, (vii) whether the sponsor will invite, publicize or advertise the event to groups and other persons that the sponsor does not directly represent, (viii) a description of the types of animals, the types of vehicles to be used, the number of bands and other musical units and sound trucks to be used, and the number, type, and size of banners, placards, and signs to be used, (ix) the number of persons who will be designated by the sponsor to monitor the event, and (x) any other information required by these regulations. The sponsor must disclose in an application whether the sponsor requests permission for a prohibited item to be used during a demonstration due to its expressive or symbolic quality relevant to the subject matter of the demonstration, including without limitation symbolic weapons, open flames or other similar items. If

the permit grant includes the right to carry or display a prohibited item, such item must be carried or displayed in strict accordance with the terms of the permit and must otherwise at all times conform to applicable law.

- b. Any permit grant will be based on the information provided in the application being, and remaining, complete, accurate and not lacking any material omissions regarding the nature of the event, any structures or items to be used during the event, or any activities to be conducted during an event, which information constitutes conditions and limits on the event. Sponsor will notify the Town as soon as practicable if any information in the application is no longer complete or accurate and provide a revised application containing the updated information. The Town will promptly review the revised application and notify the sponsor whether the permit will stand, or be revoked, modified or subject to additional conditions or limits. The sponsor will be responsible for notifying the anticipated attendees of any applicable conditions and limits placed on an event and any relevant subject matter of these regulations directly applicable to their conduct at an event, such as the list of prohibited items and the allotted time and location for an event and its initial staging and dispersal, if applicable.
- c. Each application must be accompanied by all required fees and deposits and signed by all sponsors responsible for the event unless, with respect to an application for a demonstration only, the sponsor claims in the application a bona fide financial hardship and the sponsor demonstrates to the Town Manager by reasonable evidence that the monetary obligations imposed by these regulations on the event would render the sponsor not reasonably able to conduct the demonstration, in which event the Town Manager shall waive, in whole or in part, compliance with the monetary obligations, including the obligations of indemnification, imposed by these ordinances to the extent necessary to enable the sponsor to conduct the demonstration.
- d. The sponsor of (i) an event at which at least 500 people will or may be expected to attend, or (ii) a special event for which admission fees will be charged shall provide the Town with the location and number(s) of people who attended the past three events staged by the sponsor (or the sponsor's officers, directors or other principals). This will assist Town officials and public safety personnel in planning for any services which may be necessary in connection with the event, including by contacting counterparts in other jurisdictions for the purpose of assessing the appropriate levels of such services.
- e. ~~Tent~~ **Clarke County Building Department** permits are required for tents that are greater than 900 square feet in size. ~~Permits for tents greater than 900 square feet can be requested by contacting the Clarke County Building Department.~~

D. Permit Processing

- (1) Permit applications for events will be processed in order of receipt. The use

of a particular area is allocated in order of receipt of completed applications (including any applicable fees or charges); however, the application of a sponsor who applies for a hardship fee waiver or reduction will not be considered incomplete due to non-payment of any fees or charges unless and until a determination is made that any fees or charges are due and owing from the sponsor and the due date for the fee has passed without the payment having been made. Unless otherwise provided by these regulations, no applications shall be accepted more than six months prior to the proposed date of an event. **This restriction shall not apply to community events which routinely repeat on an annual basis.** Upon receipt of a permit application, the Events ~~Coordinator~~ **Liaison** shall promptly deliver a copy of such application to the Town Manager, the Police Chief, the Director of the Department Public Works, the Town Planner and any other Town officials whom the Town Manager may, from time to time, designate as reasonably necessary to receive and review permit applications, or their respective designees. Such officials shall promptly deliver to the Town Manager their recommendations with respect to granting or denying the requested permit, or any modifications, conditions or limits upon which issuance of the permit should be based.

- (2) **Priority of Use.** Community events shall have priority of use of the particular street or Town land specified in section E(21) of these regulations, and those areas shall be deemed reserved unless released in writing by the sponsor. Other events may be allowed in areas which have been reserved for a community event, if they do not materially interfere with the community event and the community event sponsor consents.
- (3) **Permit Application Fees.** An application fee shall be paid by the sponsor of every proposed event for which a permit is required. See Appendix A for the amount of the fee. If a permit is denied or revoked, the application fee will not be refunded.
- (4) **Requests for Information.** Before or after permit issuance, the Town Manager or his or her designee may request from the sponsor such additional information with respect to a proposed event as reasonably deemed necessary for evaluating the proposed event's compliance with these regulations and the impact of the proposed event upon public safety, persons, and property, and the interests of persons not participating in the event being able to use Town streets, sidewalks, and other public ways to travel to their intended destinations, Town parks for recreational purposes, and other Town lands for their intended purposes unreasonably impaired. **This may include a personal meeting with the Town Manager and Town of Berryville staff.** The sponsor's failure to timely provide such additional information constitutes grounds for the denial of a permit request or the modification, conditioning or limiting of a permit.
- (5) **Grounds for Rejecting or Revoking a Permit.** A permit may be denied, or its grant may be conditioned or limited by the Town Manager, or an issued permit

may be revoked upon the following grounds:

- a. Receipt of Multiple Requests: a fully executed application for the same time and place has been received at an earlier time, reserving an area for an event or activities which do not reasonably permit multiple events in the particular area.
- b. Impact on Public Safety: **if** it reasonably appears that the proposed event, due **to** its nature, location, anticipated number of attendees or other factors, will present a threat to public safety or health or would be unlawful (including, without limitation, where a permit or license required by the Health Department or the Virginia Department of Alcoholic Beverage Control has not been obtained).
- c. Incompatible Use: the proposed event is of such a nature or duration that it cannot reasonably be accommodated in the particular area applied for; would be inconsistent or incompatible with the purpose(s) for which the area sought to be reserved is normally used, or with other uses of the area sought to be reserved.
- d. Failure to Meet Conditions: the application proposes activities contrary to one or more of the purposes, conditions or limits specified within these regulations.
- e. No Responsible Person: there is no person authorized to sign an application on behalf of the sponsor applying for a permit and/or there is no person willing or able, as demonstrated to the Town Manager by reasonable evidence, to accept responsibility for and perform the sponsor's obligations set forth in these regulations, including, without limitation, the sponsor's indemnification obligations.
- f. In the case of a proposed special event: the proposed special event cannot be accommodated within a reasonable allocation of Town funds and/or resources, considering the event's public appeal and the anticipated participation of the general public therein.
- g. Failure of the Event to be Consistent with the Application: The Town Manager reasonably determines at any time, following consultation with the Police Chief or other appropriate Town officials, that any material information set forth in the permit application is incorrect or misleading, or has become since the submission of the application incorrect or misleading and the permit must be revoked, modified, conditioned or limited consistent with these regulations.

- h. Prohibited Items: Prohibited items are not allowed at events and an event permit will be denied or revoked if at any time it appears that prohibited items will be used, or are being used, during an event, and the Town has not granted special permission in the permit covering such use. It will not be grounds for rejection of a permit that a sponsor wishes event attendees to carry or use a prohibited item in an expressive or symbolic way, including without limitation a symbolic weapon, open flame or other similar item, provided that all attendees must be licensed to carry such weapons if required by law and the use of such items must be otherwise lawful, and further provided that the event sponsor pays for any additional police, fire and emergency medical personnel required to maintain public safety in accordance with these regulations. If any prohibited item for which special permission has been received is held or used during the demonstration in an intimidating, threatening, dangerous or harmful manner, such use will be unlawful and the permit's allowance of such use shall be automatically revoked. The person responsible for the unlawful use of the item will be directed by law enforcement to leave the demonstration area, and any person refusing to do so shall be subject to arrest for trespassing.

Nothing in these regulations shall prohibit a disabled person from carrying, possessing or using a wheelchair, cane, walker, or similar device necessary for providing mobility so that the person may participate in a permitted event.

Nothing in these regulations shall prohibit certified law enforcement officers or other public safety officials acting in their official capacity from carrying or possessing materials, weapons and / or devices used in the performance of law enforcement duties.

- (6) **Modifying or Placing Conditions or Limits on Permit Grants.** A permit may be modified or its grant may be conditioned or limited by the Town Manager where necessary to meet the requirements of these regulations or to further their purposes. Such conditions and limits may include, for example, requiring the event to be relocated to an alternative venue if doing so is required to safely accommodate the number of anticipated attendees or type of event; provided, however, that with respect to demonstrations only, the Town Manager shall take into account whether the alternative venue is suitable for communicating the content of the demonstration. The Town reserves the right to limit the number of persons allowed at events based on the location or nature of the event, and to require that the sponsor provide a certain number of individuals, who may be volunteers within sponsor's organization, to act as crowd managers to assist with ensuring that the assembly is and remains lawful and in compliance with these regulations and liaising with Town officials prior to and during the event.

(7) **Notice of Decision**

- a. Applicants shall be notified of the Town's approval or denial of a

permit for an event as soon as reasonably practicable after the date on which the application was received. The Town may also issue approval of a permit for an event conditioned upon the sponsor's accepting modifications, conditions or limits imposed on the event consistent with these regulations.

- b. Unless denied or modified within 10 business days following the submission of a completed permit application, or within thirty (30) business days if the event requires a street closure, removal of parking, or provision of public safety personnel, all requests for demonstration permits shall be deemed granted, subject to the conditions and limits set forth in the permit and these regulations, so long as the area proposed for the demonstration had not been reserved by another person prior to the date on which the permit would be deemed granted in accordance with this section.
- c. All denials of requests for or conditional approvals of, demonstration permits shall include a reasonably detailed description of the reason for the denials or the modifications, conditions or limits, and specific instructions for how an appeal of the denial or conditional approval can be submitted to the Town Manager.

(8) Permit revocation

- a. An issued permit for an event may be revoked by the Town Manager or designee upon a finding of a violation, or a reasonably anticipated violation, of any rule, ordinance, law, regulation and/or condition or limit of the permit, or a finding that a permit application was not complete or accurate or had a material omission of fact when granted, or a finding that the information in the permit application has become, or is reasonably likely to become, incomplete, inaccurate or to contain a material omission. Immediately upon such a revocation, the Town Manager or designee shall send a written notice to the sponsor at the sponsor's address in the permit application, specifying the reason for the revocation. Written notice requirements may also be satisfied by virtue of electronic transmissions via e-mail or fax.
- b. During the conduct of an event, a permit may be revoked by the ranking police officer, fire marshal or other public safety supervisory official in charge, and the event attendees dispersed, if

the event is unlawful, prohibited items are being used, there exists an imminent likelihood of violence or other threat to public safety endangering persons or threatening to cause significant property damage, or if the Town, County or Commonwealth has declared either a state of emergency or an unlawful assembly covering the area in which such demonstration is being or will be held. Upon such revocation, the sponsor and the other sponsor attendants shall communicate the need to disperse the demonstration to the attendees.

- c. When a permit has been granted, or is deemed to have been granted pursuant to these regulations, the Town Manager may revoke, modify condition or limit the permit for any reason for which it could have been denied, modified, conditioned or limited originally.
- d. Except for permits revoked during demonstrations, all revocations of demonstration permits shall include a reasonably detailed description of the reason for the revocation and specific instructions for how an appeal of the revocation can be taken, and shall be served personally or by certified mail, with a copy sent by fax or e-mail at the sponsor's request.

(9) **Appeals**

- a. Except for permits revoked during demonstrations, an appeal of the denial, conditional approval or revocation of a demonstration permit ~~may~~ **must** be made to the Town Manager in writing, and shall include a statement of the basis for the objection to the denial, conditional approval or revocation.
- b. The Town Manager shall make a decision on appeal expeditiously and, if practicable, at least three (3) business days prior to the date the demonstration is planned to commence, and shall explain in writing the reasons for the decision.

E. Permit Conditions and Limits. All events are subject to the following conditions and limits:

(1) **Excluded Areas and Prohibited Items**

- a. No events that charge an admission fee or offer goods or services will be permitted in Rose Hill Park.
- b. Prohibited items are excluded from all events.

(2) **Street Closings**

- a. No street within Town may be closed for any event, unless done so pursuant to a street closure permit applied for by the event sponsor and issued by the Town Manager pursuant to sec. 10-7 of the Town Code; or for streets within Town maintained by VDOT, a VDOT land use permit. No such permit shall be granted unless the Town Manager or Chief of Police determines that such closure is reasonably required due to the location of the event and:
 1. Such closing is necessary because the event will impede or pose a reasonable risk of harm to traffic and/or pedestrian travel, or, if not strictly necessary, such a closing would not be unduly injurious to public safety convenience. (Requests for a street closing in the Downtown Area shall be presumed unduly injurious to public convenience if proposed to include any time between the hours of 7:00-9:00 a.m. or 4:00-5:30 p.m. Monday-Friday); and,
 2. If the street in question is an extension of the state highway system, adequate provision can be made to detour through traffic during the event. (C.Ref. Town Code 10-7; Temporary Street Closings, Generally; State Code 15.2-2013), and
 3. The sponsor permitted to use public right(s)-of-way being closed will furnish a public liability and property damage insurance contract, as required by Va. Code §15.2-2013 and §E(4) of these regulations.
- b. No street may be closed for an event except on a temporary basis, not to exceed ~~48 hours~~ 8 hours in duration.
- c. Even if not requested by a sponsor, if the circumstances of a proposed event are such that a street closing is necessitated because the event will likely impede or pose a threat to vehicular or pedestrian travel then the Town will require a permit and a street closing in connection with the event, along with all application fees applicable thereto, and may require that the event be held at an alternate site if a suitable alternate site is available where the event is not likely to impede or pose a threat to vehicular or pedestrian travel.
- d. Upon approval of a street closing in connection with an event, the sponsor shall be issued a street closure permit by the Town Manager. This permit shall be displayed in a prominent place during the event.

- e. During the conduct of an event, the sponsor of that event shall comply immediately with the lawful request of any police officer, firefighter, rescue service person, or town employee, made for public safety or other emergency reasons, to move any structure or persons from a street which has been closed in connection with that event.
 - f. Notwithstanding any of these provisions, the Town Manager may close any street for a neighborhood-based gathering when (i) 1 block or less is to be closed, (ii) there is an alternative for all traffic, (iii) reasonable notice of the closure is given by posting signs at either end of the block, and (iv) the Town Manager believes that there are no safety issues. In these cases, no permit is required and applicants shall be referred to the Town Clerk for street closure permits.
- (3) **No Impediments to Public Access.** During any street closure, all Town ordinances and State statutes limiting the use or obstruction of fire lanes, access to Fire Department fire suppression system connections and fire hydrants, emergency routes, and pedestrian walkways must be observed at all times. No person(s) or group(s) participating in an event shall block any entrances to or exits from Town buildings, nor shall such person(s) or group(s) interfere with the use of Town buildings, parks or facilities by non-participating persons for their ordinary purposes, whether by impeding access, impeding egress using fire exits and routes, creating unreasonable noise or otherwise.
- (4) **Indemnification and Insurance.**
- a. Sponsors of events for which a permit is required shall be required to indemnify and hold harmless the Town, its officials, employees and agents from any personal injury, death and damages to property, and any other loss, cost and/or damage occurring as a result of the actions or inactions of the event's sponsor, or the sponsor's failure to comply with these regulations.
 - b. The sponsor(s) will accept the reserved area as-is, and the Town does not warrant that any public area(s) are suitable for the activities to be conducted as part of the event. The event sponsor(s) shall be solely responsible for any damages or injuries resulting to any person or property arising out of the sponsor(s)' use of Town property for the event, and the sponsor(s)' failure to obtain any required public liability insurance for the event is at the sponsor(s)' sole risk. The Town expressly reserves all sovereign and governmental immunity to which it, and its officers, officials and employees may be entitled to under the laws of the Commonwealth of Virginia.

c. Insurance or Other Liability Contract. The sponsor of an event shall furnish a general liability and property damage insurance contract insuring the Sponsor's liability for personal injury and death and damages to property resulting from its use of public property. If alcohol is to be served or sold in connection with the event, then the required insurance shall cover liability specifically in connection with that activity. The required general liability and property damage insurance shall be provided in an amount not less than \$1,000,000, and the insurance policy shall name the Town (including its officers, officials, employees and agents) as an additional insured party to the insurance contract. Failure to provide required insurance, and reasonable documentation of the insurance, will be grounds for denial and/or revocation of a permit.

1. Prior to commencement of the event, the Sponsor must provide the Town with an insurance certificate that verifies the insurance coverage required by these regulations.

2. This insurance requirement may be waived, in whole or in part, by the Town Manager for events that do not (i) pose a high level of liability risk to the Town or a material risk to public safety, and (ii) do not involve any inherently dangerous activity. A written request to waive or modify any insurance requirement must be made by the sponsor at the time a permit application is submitted. An approval or denial of the request will be made in writing to the event sponsor by the Town Manager.

d. The sponsor of an event for, or in connection with, which any type of royalty(ies) are required to be paid must agree to pay all such royalties (including, without limitation, any which may be due to ASCAP and BMI) and to indemnify and hold the Town harmless from and against any and all royalty payments sought from the Town.

(5) **Limited Duration.** No event shall be authorized for a duration in excess of the time periods set out below, and no street closing shall be authorized for a duration in excess of ~~48~~ 8 hours. Provided, however, that the stated periods ~~will~~ may be extended, upon request no later than 24 hours prior to the expiration of the then-authorized duration for demonstrations only up to the following periods, unless another application requests use of the particular area and said application precludes double occupancy: (a) Rose Hill Park: 2 days.

(6) **Time of Day Restrictions.** No event shall be permitted in any Town park during hours that the park is otherwise closed to the public.

(7) **Sound Amplification.**

a. The Town Manager may approve a request in the permit application

for the use of sound amplification equipment in connection with the permitted event in accordance with exemptions to noise ordinance violations enumerated in Chapter 11 of the Code of the Town of Berryville. The Town Manager may reasonably limit the sound amplification equipment so that it will not unreasonably disturb nonparticipating persons in, or in the vicinity of, the area of an event and/or so that it will not unreasonably interfere with the conduct of another event, or an outdoor business enterprise in the vicinity or area.

- b. No amplified sound shall be generated by or in connection with an event between the hours of 10:00 pm and 07:00 am.

(8) Sales or Distribution of Merchandise/Information

- a. When the sale or display of merchandise, or the distribution or display of educational, informational or other materials (including the distribution of non-commercial printed materials) is to be done in or upon Town streets or parks with the aid of a table, stand or structure, no such table, stand or structure shall exceed 4 ft. x 4 ft. or 2 ft. x 8 ft.
- b. Whether or not a permit is required, the sale, display or distribution of merchandise or other materials, and the solicitation of contributions or donations, is prohibited in the following areas: (1) any location that would impede access to the entrance of any adjacent building or driveway; (2) any location such that the sale or distribution activity would occupy more than half the available sidewalk width, or four feet of sidewalk width, whichever is less; (3) within 10 feet of a fire hydrant, a public telephone, a fire escape, the driveway of a fire or police station, or a loading zone; (4) within the portion of any street intended for the use of motor vehicles which has not been temporarily closed for or in connection with the demonstration or special event; (5) if done with the aid of a table, stand or structure: within any area reserved by a permit issued for an event, if the sponsor of the event has not consented to the presence of the table, stand or structure; **(6) upon the lands or within the structures of Rose Hill Park.** ~~All merchandise displays shall conform to the guidelines of the Board of Architectural Review as applicable.~~
- c. Persons or organizations engaged in the sale, display or distribution of written or printed materials, and/or the solicitation of donations or contributions, whether or not a permit is required, shall not obstruct or impede pedestrians or vehicles, harass park visitors or the attendees of any event with physical contact, misrepresent the purposes or affiliations of those engaged in the activity, or

misrepresent whether written or printed materials being distributed are available without cost or donation.

- d. No sales or distribution activity may be conducted after 10:00 p.m., except that such activity shall be allowed past 10:00 p.m. in connection with a community event.

(9) **Food and Beverage Sales.** The sale or distribution of food and/or beverages as part of an event is allowed pursuant to a permit.

- a. All sales and/or other provision of food and/or beverages must be done in accordance with all licenses, permits and approvals (including, without limitation, those required by the Health Department, the Department of Alcoholic Beverage Control and the Town Treasurer) required by law. If the sponsor cannot provide documentation to the Town that all required licenses or permits have been obtained, that shall be grounds for denial or revocation of the permit for the event.
- b. The sponsor shall provide the Town with a diagram identifying the size and location of any tables, stands, food trucks or mobile food units or other structures to be used for or in connection with the sale of food and beverages. There shall be no sales or distribution of food or beverages in any of the following locations: (1) any location that would impede access to the entrance of a building or driveway; (2) any location such that the sale or distribution activity would occupy more than half the available sidewalk width, or four feet of sidewalk width, whichever is less; (3) within 10 feet of a fire hydrant, a public telephone, a fire escape, the driveway of a fire or police station, or a loading zone (unless the loading zone is located in a street temporarily closed in connection with the event); (4) within the portion of any street intended for the use of motor vehicles which has not been temporarily closed for or in connection with the event.
- c. Any person selling or otherwise providing food and/or beverages during an event or community event, within an area reserved pursuant to the permit authorizing that event or community event, must do so with the consent of the sponsor and must have all licenses, permits and approvals required by law. The sponsor controls vendors only within the area designated for the event or community event.
- d. There shall be no sale or other provision of food or beverages at any event after 10:00 p.m.
- e. In accordance with the Deed of Gift for the lands of Rose Hill Park, no food and/or beverages may be offered for sale, however, food and/or beverages excluding those containing alcohol and in accordance with all other regulations set forth in this section may be provided free of charge by the sponsor to event attendees.

(10) **Signs and Banners.** The use of signs and banners in or upon the Town's streets is prohibited, for or in connection with any event, except:

- a. ~~Banners will be allowed pursuant to the regulations set forth (is there any regulation set forth by the Town and does the VDOT process need to be mentioned)~~
- b. Signs hand-carried by an individual are allowed up to 3 feet by 5 feet in size. If during an event signs, due to their size or collective use by persons, interfere with the public safety personnel's ability to conduct their duties, such signs can be restricted or banned from the event.
- c. Signs are allowed on or within any table, stand or other structure at which food, beverages or merchandise is being sold, or at which non-commercial printed material is being distributed, so long as that sign is no larger than two (2) square feet in area and contains no advertising or advertisement.
- d. Signs that are attached permanently, or semi-permanently, to stands or vehicles being used for or in connection with authorized recreational activities or events are allowed.
- e. ~~No signs or placards shall be tied, fastened, or otherwise attached to or leaned against any Town fences, lamp posts or other buildings or structures. No signs or placards shall be placed or set down on the center portion of any sidewalk. (C.Ref.15-6:Obstructions generally)~~

(11) **Advertising.** Advertising/Advertisement (see definitions set forth in section IIIA) by the use of banners, billboards, signs, markers, audio devices, or any other means whatsoever is prohibited in or upon Town streets, sidewalks and parks for or in connection with any event. (C.Ref. State Code 15.2-2013).

(12) **Temporary Structures.** The erection, placement or use of structures of any kind is prohibited, except:

- a. In connection with permitted events, temporary structures may be permitted provided that notice to the Town Manager is provided contemporaneously with the permit application. Examples of temporary structures that may be permitted are as follows: structures erected for the purpose of symbolizing a message, first aid facilities, lost child alerts, shelter for electrical or other sensitive equipment.
- b. Structures that are being hand-carried are allowed as part of a demonstration.
- c. Structures that are permitted pursuant to other sections of these regulations are allowed.
- d. When allowed: (1) structures are not permitted on sidewalk(s) unless they meet the size criteria described in section (8)a of these regulations; (2) structures must be erected in such a manner so as not to unreasonably harm park or other public area resources and the sponsor of the event must agree to remove such structures as soon as practicable after the conclusion of the permitted demonstration or

special event; (3) structures must be capable of being removed upon 24 8 hours' notice and without permanent damage to Town lands (with the sponsor being responsible for any non-*de minimis* costs of remedying any damage arising out of such removal), and shall be secured in such a manner so as not to interfere unreasonably with use of any park area by other permittees authorized under this section; (4) structures shall not be attached to or fashioned in any way that would damage trees or other existing structures on public lands; and (5) the sponsor must comply with all other regulations concerning temporary structures and required permits as established by the **Berryville Planning Department and** Clarke County Building Department.

- e. The Town Manager may impose other restrictions upon the use of temporary structures in the interest of protecting park or other public areas and/or traffic and public safety considerations.

(13) Sanitation and Garbage.

- a. Garbage, trash, rubbish, litter, or any other waste material or waste liquid generated on public property during an event shall be removed from the area by the sponsor of the event, or deposited in receptacles provided for that purpose. The improper disposal of such waste is prohibited.
- b. The sponsor of every event shall be required to pay a fee for cleanup costs, in the amount specified within Appendix A, to cover anticipated costs to the Town of cleaning up the site for restoring the area in question to its pre-event condition, and disposing of trash and refuse resulting from the event. This fee must be paid in advance. If actual cleanup costs incurred by the Town exceed the amount of the Cleanup Fee **Deposit** collected in advance by the Town, the sponsor will be billed by the Town for the excess.
- c. A sponsor of any event must arrange for such public restroom facilities as may be required by the Health Department. The Town shall bear no responsibility for the cost of providing such facilities, and it shall be the sponsor's obligation to provide documentation to the Town Manager that all restroom facilities required by the Health Department have been arranged. Failure to provide documentation of Health Department approvals prior to an event shall be grounds for denial or revocation of a permit.

(14) Electricity.

Sponsors in community events may have the use of Town electrical outlets, as needed. Sponsors may be required to pay an Electricity Fee, in advance, at the discretion of the Town Manager and based upon anticipated electricity needs for the event. Attendees in events may not have the use of Town electrical outlets.

(15) Fireworks Displays; Open Flame.

Persons desiring to conduct a pyrotechnic display of fireworks on streets or public lands must obtain approval from the State Fire Marshall's Office. Persons desiring to use open burning or open flame on streets or public lands must obtain a permit from the Town as required by sec. 6-1 (Open burning; generally) of the Town Code. Fires upon the lands of Rose Hill Park are prohibited with the exception of fires within grills located in the park designed for the preparation of foods or in conjunction with special ceremonies approved by the Town Manager. (Berryville Town Code sec. 13-36(l)) The Chief of Police, in consultation with the Clarke County Director of Fire and EMS, may withhold approval of such permit to the extent its issuance would result in the violation of a Town ordinance or it might jeopardize public health, safety or welfare.

(16) **Public Safety Personnel.**

- a. No permit will be granted for an event unless adequate security will, in the determination of the Town Manager upon consultation with the Police Chief, Clarke County Director of Fire and EMS, or other appropriate public safety official, be available for the welfare and safety of those attending the event and of the general public.

1. General Requirements.

- (A) Minimum Required Security Officers:

- (1) Open Events (Admission not restricted by tickets, fees, or otherwise) Where Alcohol is Served or Offered for Sale. Baseline: the sponsor must pay the cost of one police officer to staff the event, regardless of attendance. Where attendance exceeds, or is expected to exceed, 100 people, the sponsor must, in addition, pay the cost of one police officer for every 100 people (or portion thereof) attending or expected to attend.
 - (2) Closed Events (Admission restricted by tickets, fees or otherwise) Where Alcohol is Served or Offered for Sale. Baseline: the sponsor must pay the cost of two police officers to staff the event, regardless of attendance. Where attendance exceeds, or is expected to exceed, 350 people (or portion thereof), the sponsor must, in addition, pay the cost of one police officer for every 350 people.
 - (3) Events at Which No Alcohol Will Be Served or Offered for Sale (whether open or closed to the general public). Where attendance

exceeds, or is expected to exceed, 1000 people, the sponsor must pay the cost of one police officer to staff the event, regardless of attendance. The sponsor must, in addition, pay the cost of one police officer for every 1000 people (or portion thereof) attending or expected to attend.

- (4) Marathons/Races/Walks. Baseline: The sponsor must pay the cost of one police officer per hour of the race. The sponsor may be required to pay for additional police officers to staff the event, if the Police Chief (or his designee) determines additional police officers to be necessary due to the geographic location of the proposed event, the time of day the event is planned to occur, or other factors related to the safety of attendees or the general public and the efficient flow of traffic and pedestrian travel along the planned route of the event.

- (5) Additionally, the sponsor shall be required to pay the cost of one traffic/parking control officer for every 1,000 people (or portion thereof) attending the event.

- (6) Upon a determination by the Chief of Police, or his designee, due to public safety factors such as the size of the crowd, the location or nature of the event, or the anticipated use of structures, sound equipment or items that could during an event become prohibited items, that one or more police vehicles are necessary to assure safe and efficient police coverage of an event, the sponsor must pay a vehicle fee, as specified in Appendix A, for each required vehicle. A sponsor may request, in advance of an event, an estimate of the number of vehicles that may be required; however, if circumstances of the event require the assignment of additional vehicles, the sponsor will be billed, and must pay, the required fee for each vehicle actually deployed.

- (7) Upon a determination by the ~~Fire Chief~~ Clarke County Director of Fire and EMS, or his

designee, due to public safety factors such as the size of the crowd, the location or nature of the event, or the anticipated use of structures, sound equipment or items that could during an event become prohibited items, that one or more fire vehicles and / or emergency medical services vehicles are necessary to assure safe and efficient fire or emergency coverage of an event, the sponsor must pay a vehicle fee, as specified in Appendix A, for each required vehicle. A sponsor may request, in advance of an event, an estimate of the number of vehicles that may be required; however, if circumstances of the event require the assignment of additional vehicles, the sponsor will be billed, and must pay, the required fee for each vehicle actually deployed for the event.

- (8) Upon a determination by the Fire Chief Clarke County Director of Fire and EMS, or his designee, that due to public safety factors such as the size of the crowd, the location or nature of the event, or the anticipated use of structures, sound equipment or items that could during an event become prohibited items, one or more firefighters, fire officers or emergency medical services providers are necessary to assure safe and efficient fire and emergency coverage of an event, the Sponsor must pay the cost of those firefighters, fire officers or emergency medical services providers. A Sponsor may request, in advance of an event, an estimate of the number of firefighters/officers that may be required; however, if circumstances of the event require the assignment of additional firefighters/officers, the Sponsor will be billed, and must pay, the required fee for each firefighter/officer actually deployed.

- (B) Fees and Charges: The fee(s) and charges associated with the above-stated police officer, career fire fighter and emergency vehicle requirements are set forth within Appendix A. The costs charged to sponsors for required police, fire and emergency personnel coverage will be the established hourly wage for overtime work for the particular officer(s) willing and

available to cover the event. In the event that the Town's actual cost of police, fire, and emergency personnel coverage necessitated if the event exceeds the amount(s) collected in advance as deposits, the sponsor will be billed by the hour for each Town officer, fire and emergency personnel utilized to patrol or at the location available to assist the event as needed.

- (C) Where Admission Fees Will be Charged: The sponsor of an event for which admission fees will be charged shall provide at least two secure access gates, at locations approved by the Town's Police Department. For events to which tickers are sold in advance, the sponsor shall, two days prior to the event, and at any other time reasonably requested by the Town, advise the Town as to how many tickets have been sold as of the day of the report. This will assist the Town in planning for any additional police or other services which may be necessary in connection with the event.

(17) Facilities Charges.

The sponsor of an event to which an admission fee will be charged (by ticket sales or otherwise) shall pay the Town a rental fee in the amount specified in Appendix A. These types of events tend to have a greater impact upon the community in general and upon the specific area reserved for the event.

(18) Carnivals, Circuses and ~~Parades~~

- a. No circus, carnival, or other similar show shall publish or post in any way within the Town, at any time within 15 days prior to the holding of such event within the Town, any advertising of the exhibition of the circus, carnival or other similar show. (C.Ref. Va. Code 58.1-3728).
- b. Any circus, carnival or other, similar show shall obtain the license required by section 14-23 of the City Code before commencing any activity, and shall pay the policing deposit required by section 3-2 of the City Code (\$50 per day).
- c. The sponsor of the circus, carnival, etc. shall pay a fee, as specified on Exhibit A hereto, for the inspection of any amusement rides to be offered as part of the event, and shall pay the tent erection fee(s) required by regulations of the Clarke County Building Department.

(19) **Other Conditions and Limits.**

- a. A permit may contain additional conditions and limits, consistent with these regulations, as may be warranted by the nature of a particular event, in the interest of protecting park or other town resources, the use of nearby areas by other persons, and other legitimate property and/or public safety concerns.
- b. Sponsors who request the Town to provide special equipment or facilities (e.g., barricades and cones for street closings, tables, chairs, public address systems, fencing, etc.) will be charged a reasonable fee and rental therefore. The appropriate fees shall be identified by the Town Manager to the sponsor following the sponsor's request for such items.
- c. A permit for a demonstration may be subject only to reasonable time, place and manner conditions or limits that: (i) are narrowly tailored to serve the Town's significant interest, and (ii) leave open ample alternative channels for communication of the content of the demonstration. No permit denials, revocations, or modifications, and no time, place, or manner conditions or limits imposed on a demonstration, may be based on the content of the beliefs expressed or anticipated to be expressed during the demonstration, or on factors such as the attire or appearance of persons participating or expected to participate in a demonstration (except to the extent involving unlawful or prohibited items), nor may such conditions or limits favor special events over demonstrations. With respect to demonstrations, these regulations shall be applied, and the Town Manager or his or her designee shall make permitting decisions in compliance with and to further the intent of this section (19) c. The Town Manager may impose such conditions or limits on a demonstration (i) during the permitting approval process, or (ii) during the occurrence of a permitted demonstration if necessary: (A) to ensure that the demonstration meets the stated terms and purposes of these regulations (B) due to the occurrence of circumstances unrelated to the demonstration that were not anticipated at the time of the approval of the permit and that were not caused by demonstration attendees, counter-protestors or Town officials, or (C) due to a determination by the Police Chief, the Clarke County Director of Fire and EMS or other appropriate public safety official during the demonstration that there exists an imminent likelihood of violence or other threat to public safety endangering persons or threatening to cause significant property damage.

- (20) **Information Collection.** The information collected under these regulations will be used to provide notification to the Town Police, Town Department of Public Works, and local fire and rescue officials of the plans of sponsors of large-scale events in order to assist in the provision of security and logistical support.

- (21) **Community Events.** Except as expressly stated, community events shall be conducted in accordance with all the conditions and limits on events as specified in section E above. Except as specified below, the sponsor of a community event shall pay the fees and deposits specified in these regulations and required by the Town Code. Community events include the following:

a. **Farmers' Market**

The Farmer's Market is held on the Rixey-Moore parking lot on Saturday mornings from April through October. The market is governed by a Board and has its own set of regulations which have been reviewed by Town Council.

b. **Music in the Park**

c. **Homecoming Parade**

d. **Christmas Parade**

e. **Summer Concert Series**

f. **National Night Out**

g. **Memorial Day Observance**

h. **Veterans Day Observance**

APPENDIX A

1. Event Permit Application Fee (pay upon application) \$25.00 (non-refundable)
2. Street Closure Fee (pay upon application) \$100.00 (non-refundable)
3. Gazebo Security Deposit (pay upon application) \$50.00

4. Public Space Rent (events to which entry is limited by tickets or admission fees)

0 – 1,000 attendees	\$50.00
1,001 – 1,999 attendees	\$100.00
2,000 – 2,999 attendees	\$150.00
3,000 attendees and up	\$500.00

\$50.00 due with application. Remainder of Public Space Rent to be submitted to the Town within five (5) calendar days following conclusion of the event, along with documentation of total ticket sales or attendance count. The Town may monitor attendance to verify attendance numbers.

5. Electricity Fee \$50.00 Advance deposit

Advance deposit covers first four (4) hours of use. Sponsor will be billed \$10.00 per hour for each additional hour of actual usage.

6. "No Parking" Signs \$1.00 per sign – Billed
7. Building Permit Fee (Tent) Contact Clarke County Building Department
8. Amusement Ride Inspections Contact Clarke County Building Department
9. Public Works Fee \$100.00 Advance deposit

Advance deposit covers first two (2) hours of labor associated with event. Sponsors will be billed \$50.00 per hour for each additional hour of labor that is provided.

10. Public Safety Personnel

\$50.00 per required Officer, Advance deposit
(Refundable up to 24 hours prior to Event)

- Deposit due with application
- For ticketed events, where tickets are sold in advance an additional \$50.00 deposit required per required officer/technician, as calculated based on tickets sold as of 48 hours prior to the Event. The additional deposit is due 24 hours in advance of the Event.
- Sponsor will be billed per hour for each officer/technician actually utilized (based on police / fire / EMS estimates of actual attendance and/or circumstances of the event and based on the regular hourly rates or salaries for the police/fire/EMS personnel utilized).
- *Hourly Rates:* The Sponsor will be billed the higher of: (i) \$30.00 per hour, or (ii) the established hourly wage for overtime work, or (iii) the special event flat rate for FSLA exempt employees, as may apply for each of the particular officer(s)/technician(s) willing and available to cover the event, for each officer/technician actually utilized, plus an administrative fee in the amount of ten percent (10%) of the total billed amount.

11. Public Safety Vehicle Fee

\$25.00 per required vehicle – Billed

12. Cleanup Fee

- Closed Event (Admission limited by tickets or fees) \$300.00 Advance Deposit
Refundable if Event cancelled in advance
- Other Events \$100.00 Advance Deposit
Refundable if Event cancelled in advance

APPENDIX B

Special Events Forms

Special Event Permit Application.....	I-VI
Town of Berryville Land Use Permit.....	VII
VDOT Land Use Permit.....	VIII
Gazebo Request Permit.....	IX-XI

Special Event Permit Application

Activity type and/or location (Please select all that apply):

<input type="checkbox"/> Block Party	<input type="checkbox"/> Rose Hill Park	<input type="checkbox"/> Other
<input type="checkbox"/> Parade	<input type="checkbox"/> Gazebo at Rose Hill Park	(please describe)
<input type="checkbox"/> Film Production	<input type="checkbox"/> Rixey Moore Parking Lot	_____
	<input type="checkbox"/> Hogan's Alley	_____

Group Requesting Event _____

Date of Event _____

Rain Date, if any _____

Time of Event _____

Organizer's contact Information (Representative must be present at the event with approved permit available for inspection)

Primary Name _____ Cell Phone _____

Address _____ Work Phone _____

City _____ State/Zip _____

Email _____ Home Phone _____

Secondary Name _____ Cell Phone _____

Address _____ Work Phone _____

City _____ State/Zip _____

Email _____ Home Phone _____

Description of the Event (Please attach additional sheet if more space is needed)

Will the activity require the blocking of any surrounding public streets, driveways or entrances?

Yes _____ No _____ If yes, please identify:

Event Hours

Set-Up Time _____ Hours of Event _____ Clean-Up Time

Anticipated Attendance

Participants _____ Spectators _____ Other _____

Name of Insurance Company:

(Certificate of Insurance and additional insured endorsement providing \$1 million in general liability insurance required. May be increased or waived as deemed necessary as determined by the Town Manager or their designee.) Please note that animals on site require additional insurance.

Will sound amplification devices be used? Yes _____ No _____

If Yes, length of time: _____

Will the event require use of any parking lots for staging areas? Yes _____ No _____

If Yes, please identify:

Will alcohol be served? Yes _____ No _____

If Yes, all state laws and local ordinances must be followed. The organizer must obtain a Virginia ABC permit (<http://www.abc.virginia.gov/>) and is responsible for all required permits.

Will food be served? Yes _____ No _____

If Yes, the organizer may be required to obtain a permit from the Virginia Department of Health (540/955-1033) and is responsible for all requisite permits.

Will any fees be charged in association with the event, admission, etc.?

Yes _____ No _____ If yes, amount to be charged _____

If Yes, please note that a Fundraising Permit is required upon application for valid and duly-constituted non-profit organizations for the purpose of approved charitable, educational, cultural, and/or community-oriented projects and activities. Commercial activity is prohibited.

Will you have security on site? Yes _____ No _____

If Yes, please identify who will be on site

Will weapons or firearms be present? Yes _____ No _____

If Yes, please provide detail of activity

Will there be a parade? Yes _____ No _____ (If yes, please complete the following section)

VDOT and/or Town of Berryville Land Use Permit and fee are required.

Please identify parade route

Will there be vehicles in the parade? Yes _____ No _____ Number of vehicles anticipated _____

What time will staging occur? _____

Where will staging occur? _____

Will there be animals in the parade? Yes ____ No ____

If Yes, what type and how many ?

Will you need assistance from Fire & Rescue? Yes ____ No ____

If Yes, please contact John H. Enders Fire & Rescue at 540/955-1110 at least ten (10) days prior to the event.

Will you be using any of the following? Yes ____ No ____

____ Tents

____ Tables

____ Live Radio

____ Signs

____ Banners

____ Animals

____ Portable Toilets

____ Other

____ Electricity

Please note: Architectural Review Board review and approval and Zoning Permits may be required for certain banners, signs and temporary structures.

Hold Harmless Agreement

_____ (Legal name of business/organizer, exactly as it appear on Insurance Endorsement), shall defend and hold harmless, the Town, its officers, employees, agents, and representatives thereof, harmless from all suits, actions, claims of any kind, including attorney's fees, brought on account of any personal injuries, damages, or violation of rights sustained by any person or property in consequence of any neglect on behalf of _____ (Legal name of business/organizer) while their personal property is situated on Town Property.

_____ (Legal name of business/organizer) shall further hold the Town harmless for any claims or amounts arising from violation of any law, bylaw, ordinance, regulation or decree.

Legal Name of Business/Organizer _____
(As it appears above)

By (signature): _____

Name (printed): _____

Title: _____

Address: _____

Date: _____

+++++

For Office Use Only

Permit Approved _____ Denied _____

By

Date

Permit #

Special Event Permit # _____

Permission is hereby granted to _____
(Name of Organization/ Organizer)

for the use of the facilities at Rose Hill Park on _____
(Date)

from _____ to _____
(Time)

This permit is issued with the understanding that _____
(Name of Organizer)

shall accept responsibility for adherence to the Policies Governing Use of Rose Hill Park as well
as to any special conditions which may be attached hereto.

Date _____ Signed _____
Town Manager

Special Fundraising Permit

Permission is further granted to the above-named Organization for a fundraising event
pursuant to the approved application for same dated _____.

Date _____ Signed _____
Town Manager



LAND USE PERMIT
LUP-A Land Use Permit Application
September 24, 2014

APPLICATION is hereby made for permit as shown on the accompanying plan or sketch and as described below. Said activity(s) will be done under and in accordance with the rules and regulations of the Council of the Town of Berryville, in so far as said rules are applicable thereto and any agreement between the parties herein before referred to. Where applicable agreements may be attached and made a part of the permit assembly including any cost responsibilities covering work under permit. Applicant agrees to maintain work in a manner as approved upon its completion. Applicant also hereby agrees and is bound and held responsible to the owner for any and all damages to any other installations already in place as a result of work covered by resulting permit. Applicants to whom permits are issued shall at all times indemnify and save harmless the Town of Berryville Council members, the Town and all Town employees, agents, and offices, from responsibility, damage, or liability arising from the exercise of the privileges granted in such permit to the extent allowed by law. In consideration of the issuance of a permit the applicant agrees to waive for itself, successors in interest or assigns any entitlements it may otherwise have or have hereafter under the Uniform Relocation and Assistant Act of 1972 as amended in event the Town or its successor, chooses to exercise its acknowledged right to demand or cause the removal of any or all fixtures, personality of whatever kind or description that may hereafter be located, should this application be approved.

Type or print clearly

Applicant Driver's license or Tax ID No. _____

Owner Name _____

Address _____

City _____ State _____ Zip Code _____

Agent Driver's license or Tax ID No. _____

Agent Name _____

Address _____

City _____ State _____ Zip Code _____

Contact Name _____

E-mail Address _____

Telephone Number (_____) _____ - _____

Emergency Telephone Number (_____) _____ - _____

Fax Number (_____) _____ - _____

Contact Name _____

E-mail Address _____

Telephone Number (_____) _____ - _____

Emergency Telephone Number (_____) _____ - _____

Fax Number (_____) _____ - _____

Permit Term Requested _____ Fees Enclosed \$ _____ Check Number _____ Coupon Number(s) _____

Money Order _____ Other _____ Estimated cost of work to be performed on Town of Berryville Right of Way \$ _____

Surety Information:

Surety Posted by: Owner ☐ Agent ☐ Surety Refund to: Owner ☐ Agent ☐ Surety Waived ☐

Amount of Surety \$ _____ Obligation Amount \$ _____ Check # _____

Surety Company Name _____ Bond # _____

☐ **LUP-CS CASH SURETY AFFIDAVIT PROVIDED FOR CASH SURETY**

Applicant has provided proof of the following requirements in accordance as defined in §2.2-1151.1 of the Code of Virginia

- (1) The utility company has registered as an operator with the appropriate notification center.
- (2) Attached is a notarized affidavit, stating that the utility owner has notified the commercial and residential developer, owner of commercial or multifamily real estate, or local government entities with a property interest in any parcel of land located adjacent to the property over which the land use is being requested, that application for the permit has been made.

Request permission to perform the following activity(s): _____

_____ as per attached plans.

Location: ☐ County ☐ Town ☐ City of _____ Route No. _____ Street Name _____

Latitude _____ Longitude _____ Tax Map Number _____ Applicant Job No. _____

Between Route No. _____ Street Name _____ and Route No. _____ Street Name _____

☐ **IF APPLICABLE, I AGREE TO PAY THE FULL SALARY AND EXPENSES OF A STATE ASSIGNED INSPECTOR IN CONJUNCTION WITH ACTIVITIES AUTHORIZED UNDER THE AUSPICES OF A TOWN OF BERRYVILLE LAND USE PERMIT**

Signature of Applicant: _____ Title _____ Date _____

Signature of Agent: _____ Title _____ Date _____

All applicable items on this form must be completed to avoid delay in processing the issuance of a Town of Berryville Land Use Permit.
Prepayment required with remittance payable to Town of Berryville.

TOWN OF BERRYVILLE USE ONLY

Receipt is hereby acknowledged for: CHECK No. _____ COUPON No. _____ MONEY ORDER No. _____

In the Amount of \$ _____ for PERMIT FEE \$ _____ CASH SURETY \$ _____

Authorized Town Signature: _____ Date: _____



APPLICATION is hereby made for permit as shown on the accompanying plan or sketch and as described below. Said activity(s) will be done under and in accordance with the rules and regulations of the Commonwealth Transportation Board of Virginia, in so far as said rules are applicable thereto and any agreement between the parties herein before referred to. Where applicable agreements may be attached and made a part of the permit assembly including any cost responsibilities covering work under permit. Applicant agrees to maintain work in a manner as approved upon its completion. Applicant also hereby agrees and is bound and held responsible to the owner for any and all damages to any other installations already in place as a result of work covered by resulting permit. Applicants to whom permits are issued shall at all times indemnify and save harmless the Commonwealth Transportation Board members of the Board, the Commonwealth and all Commonwealth employees, agents, and offices, from responsibility, damage, or liability arising from the exercise of the privileges granted in such permit to the extent allowed by law. In consideration of the issuance of a permit the applicant agrees to waive for itself, successors in interest or assigns any entitlements it may otherwise have or have hereafter under the Uniform Relocation and Assistant Act of 1972 as amended in event the Department or its successor, chooses to exercise its acknowledged right to demand or cause the removal of any or all fixtures, personality of whatever kind or description that may hereafter be located, should this application be approved.

Applicant information:

Driver's License or Tax ID No. _____

Contact Name _____

Owner Name _____

E-mail Address _____

Address _____

Telephone Number _____

City _____ State _____ Zip Code _____

Emergency Telephone Number _____

Fax Number _____

Agent information:

Driver's License or Tax ID No. _____

Contact Name _____

Owner Name _____

E-mail Address _____

Address _____

Telephone Number _____

City _____ State _____ Zip Code _____

Emergency Telephone Number _____

Fax Number _____

Permit Term Requested _____ Fees Enclosed \$ _____ Check Number _____ Money Order _____

Estimated cost of work to be performed on VDOT Right of Way \$ _____

Surety Information:Surety Posted by: ☐ Owner ☐ Agent ☐ County Resolution ☐ Waived

If cash/check surety is posted, please complete
Commonwealth of Virginia's Substitute Form W-9.

Bonding Company Name _____ Bond # _____

Irrevocable Letter of Credit - Bank Name _____ Irrevocable Letter of Credit # _____

Surety paid by Check - Check Number _____

Amount of Surety \$ _____ Obligation Amount \$ _____

Request permission to perform the following activity(s): _____

_____ as per attached plans.

Location: ☐ County ☐ Town ☐ City of _____ Route No. _____ Street Name _____

Between Route No. _____ Street Name _____ and Route No. _____ Street Name _____

Latitude _____ Longitude _____ Tax Map Number _____ Applicant Job No. _____

Applicant shall provide proof of registration as an operator with the appropriate notification center in accordance as defined in §2.2-1151.1 of the Code of Virginia & must provide a notarized affidavit, stating that the utility owner has notified the commercial and residential developer, owner of commercial or multifamily real estate, or local government entities with a property interest in any parcel of land located adjacent to the property over which the land use is being requested, that application for the permit has been made.

☐ IF APPLICABLE, I AGREE TO PAY THE FULL SALARY AND EXPENSES OF A STATE ASSIGNED INSPECTOR IN CONJUNCTION WITH ACTIVITIES AUTHORIZED UNDER THE AUSPICES OF A VDOT LAND USE PERMIT.

By signing below, I acknowledge that I am fully cognizant of all the LUP-SPG requirements associated with the issuance of a VDOT Land Use Permit.

Signature of Applicant: _____ Title _____ Date _____
Signature of Agent: _____ Title _____ Date _____

All applicable items on this form must be completed to avoid delay in processing the issuance of a VDOT Land Use Permit.
Prepayment required with remittance payable to Treasurer of Virginia.

VDOT USE ONLY

Receipt is hereby acknowledged for: CHECK No.: _____ MONEY ORDER No.: _____

In the Amount of \$ _____ for PERMIT FEE \$ _____ CASH SURETY \$ _____

Authorized VDOT Signature: _____ Date: _____

*Agent mean: Applicant contractor's or a person or business authorized to act on another's behalf.

GAZEBO PERMIT REQUEST FORM
ROSE HILL PARK
BERRYVILLE, VA

GROUP REQUESTING USAGE: _____

ORGANIZATIONAL REPRESENTATIVE: _____

REPRESENTATIVE'S PHONE: _____

DATE OF REQUESTED USAGE: _____

TIME OF USAGE: _____

ACTIVITY BEING SCHEDULED: _____

ACTIVITY COORDINATOR: _____

DATE OF APPLICATION SUBMISSION: _____

I here by affirm by my signature that I have been funished a copy of Rules and Regulations Governing the Use of Rose Hill Park, and further that I will accept responsibility for the entire group's adherence to all such rules and regulations, as well as to any other conditions which may be established in conjunction with the issuance of a permit for use of Rose Hill Park.

Date: _____

Signed: _____
Activity Coordinator

MAIL REQUEST TO: TOWN OF BERRYVILLE
101 CHALMERS COURT, SUITE A
BERRYVILLE, VA 22611

RETURN ADDRESS: _____

TOWN OF BERRYVILLE
ROSE HILL PARK SPECIAL EVENT PERMIT

Permission is hereby granted to _____(Name of Group) for use of the facilities of Rose Hill Park on ____/____/____(Date of Event) beginning at _____(Time). This permit is issued with the understanding that _____, as Activity Coordinator, shall accept responsibility for adherence to the Rules and Regulations Governing the Use of Rose Hill Park as well as to any special conditions which may be attached hereto.

DATE: _____

AUTHORIZED: _____

Revision Table

Draft V2_9/2018

Page	Revision
I	Table of Contents added
1	Commercial Activity defined
2	Event liaison – language struck
6	Requests for information – language added
9	Permit revocation (a) – designee language added
13	Limited duration (5) – hours decreased from 48 to 8
14	(8)b – Commercial activity prohibition in Rose Hill Park added
15	Signs and banners – (10)a struck
16	(10)e struck
16	(12)d – Removal of temporary structure reduce from 24 hours to 8
17	(12)d – Berryville Planning Department added
17	(15) Open Flames – Town Code 13-36 cited – Fires in Rose Hill Park
19	(16)a1(A)(7) – Fire Chief replaced with Director of Fire and EMS
20	(16)a1(A)(8) – Fire Chief replaced with Director of Fire and EMS
21	(18) Parades removed from section
22-23	Additional Community Events added

Draft V3_10/18

Page	Revision
2	Sec. II Town Planning Department added
6	Permit Applications C(2)e – Reworded for clarity
8	D(5)b - Grammar
10	D(8)a – Permit revocation – Language added for electronic written notice
13	E(3) – Permit Conditions – “Park” added to list of sites

Draft Version 5_11/2018

Draft V4_11/18

3	Community event added to Event definition language
4	Streets definition - grammar
5	C.(1) Permits – “will” replaced with “may”
5	C.(2) Events Coordinator replaced with Events Liaison
7	D.(1) Events Coordinator replaced with Events Liaison
7	D.(2) Referenced section (21) corrected to E(21)
14	E.(5) – “will” replaced with “may”

Draft Version 5_11/2018

Chapter 20 - ASSEMBLIES, DEMONSTRATIONS, AND PARADES^[1]

Footnotes:

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Editor's note— An Ord. of May 13, 2008 repealed former Ch. 20, §§ 20-1—20-16, in its entirety and enacted new provisions as herein set out. Former Ch. 20 pertained to similar subject matter and derived from an Ord. of July 24, 1991.

Sec. 20-1. - Purpose.

Pursuant to the authority granted to the town by the Code of Virginia and its general police powers, the town does hereby adopt the following sections in order to provide for the public health, safety, and general welfare in the town, to ensure the free and safe passage of pedestrians and vehicles on the public rights-of-way, and to ensure the safe and unimpaired use and enjoyment of public property in places open to the general public, and otherwise to regulate and control the time, place, and manner of activities that would otherwise threaten or impair the public health, safety, and welfare in the town while also encouraging the exercise of the rights to free speech and assembly in the town.

(Ord. of 5-13-08)

Sec. 20-2. - Definitions.

The following terms shall have the meanings set out herein:

- (a) *Parade* means any march, demonstration, procession, or motorcade consisting of people, animals, or vehicles, or a combination thereof, upon the streets, sidewalks, or other public areas within the town with an intent or likely effect of attracting public attention that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic upon the streets, sidewalks, or other public property.
- (b) *Public assembly* means any meeting, demonstration, picket line, rally, or gathering of more than ten (10) people for a common purpose as a result of prior planning that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic upon the streets, sidewalks, or other public property within the town, or that interferes with or has a tendency to interfere with the normal use of any public property in a place open to the general public.
- (c) *Spontaneous event* shall mean an unplanned or unannounced coming together of people, animals, or vehicles in a parade or public assembly which was not contemplated beforehand by any participant therein and which is caused by or in response to unforeseen circumstances or events occasioned by news or affairs first coming into public knowledge within five (5) days of such parade or public assembly.

(Ord. of 5-13-08)

Sec. 20-3. - Permit required.

- (a) It shall be unlawful for any person to conduct or participate in a public assembly, demonstration, or parade on the public streets, sidewalks, or other public property of the town in a place open to the general public for which a written permit has not been issued in accordance with the provisions of this chapter.

- (b) The provisions of this permit shall not apply to:
- (1) Spontaneous events;
 - (2) Recreational activities, including jogging or walking, that do not require closing public streets or other public rights-of-way and that do not interfere with or have a tendency to interfere with the normal use of any public property in a place open to the general public;
 - (3) Door-to-door advocacy, including canvassing, pamphleteering, religious or political proselytizing, and the distribution of written materials, and similar activities that do not interfere with or have a tendency to interfere with the free passage of pedestrians and vehicles on the public rights-of-way or the normal use of any public property in a place open to the general public.
 - (4) Door-to-door sales of goods or services, and similar activities that do not interfere with or have a tendency to interfere with the free passage of pedestrians and vehicles on the public rights-of-way or the normal use of any public property in a place open to the general public; provided, however, that any persons or organizations engaging in such activities shall comply with any other applicable requirements of the Code of the Town of Berryville.
 - (5) Funeral processions;
 - (6) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities;
 - (7) The United States Army, Navy, Air Force, and Coast Guard, the military forces of the state, and the police and fire departments of the town;
 - (8) A governmental agency/agencies acting within the scope of its functions; or
 - (9) Park and recreation areas that are regulated by the town.
- (c) Permits may be granted if they are requested by individuals or organizations who desire to have a permit, even though the permit is not required under this section.

(Ord. of 5-13-08)

Sec. 20-4. - Application.

- (a) Any person desiring to conduct a parade or public assembly shall make written application to the chief of police, or his designee, at least five (5) days prior to such parade or public assembly. Such application shall set forth the following information:
- (1) The name, address, and telephone number of the person requesting the permit;
 - (2) The name and address of any organization or group the applicant is representing;
 - (3) The name, address, and telephone number of the person who will act as the parade or public assembly leader or chairman and who will be responsible for the conduct of the parade or public assembly;
 - (4) The type of public assembly, including a description of the activities planned during the event;
 - (5) The date and time (start and ending) of the parade or public assembly;
 - (6) If an assembly, the specific location or locations of the assembly;
 - (7) If a parade, the specific assembly and dispersal locations, the specific route, and the plans, if any, for assembly and dispersal;
 - (8) The approximate number of people who, and animals and vehicles which, will constitute such parade or public assembly, and the type of animals and a description of the vehicles;

- (9) A statement as to whether the parade or public assembly will occupy all or only a portion of the width of the streets or sidewalks or other public rights-of-way proposed to be traversed or used;
 - (10) A description of any recording equipment, sound amplification equipment, banners, signs, or other attention-getting devices to be used in connection with the parade or public assembly; and
 - (11) Such other information as the chief of police, or his designee, may deem reasonably necessary in order to properly provide for traffic control, street and property maintenance, administrative arrangements, police and fire protection, and for the protection of public health, safety, and welfare.
- (b) The chief of police, or his designee, shall not issue the permit if any material information supplied by the applicant is false or intentionally misleading.
- (c) The chief of police, or his designee, shall have the authority to and shall make reasonable efforts to consider an application hereunder which is filed less than five (5) days before the date the parade or assembly is proposed to be conducted if, after due consideration of the date, time, place, and nature of the parade or public assembly, the anticipated number of participants, and the town services required in connection with the event, and where good cause is otherwise shown, the chief of police, or his designee, determines that the waiver of the permit application deadline will not present an undue hazard to public safety.

(Ord. of 5-13-08)

Sec. 20-5. - Issuance or denial of permit.

- (a) The chief of police, or his designee, shall issue the permit within three (3) days of receipt of the completed application, and in any event prior to the scheduled parade or public assembly if the proposed parade or public assembly will not endanger the public health, welfare, or safety, applying the following criteria and finding that:
- (1) The time, duration, route, and size of parade or assembly will not unreasonably interrupt the safe and orderly movement of vehicular or pedestrian traffic or the normal use of public property in a place open to the general public;
 - (2) The parade or assembly is not of such a nature that it will require diversion of so great a number of police and fire personnel to properly police the line of movement in the areas contiguous thereto so as to impair the normal protection of the remainder of the town;
 - (3) The applicant has, where appropriate, designated monitors sufficient to control the orderly conduct of the parade or assembly in conformity with such permit;
 - (4) The conduct of the parade or assembly will not unduly interfere with the proper fire and police protection of, or ambulance service to, the remainder of the town, or unreasonably disrupt other public services and protection normally provided to the town;
 - (5) The parade or assembly will not interfere with another parade or assembly for which a permit has been granted; and
 - (6) The parade or assembly proposed will not violate, and will conform with, all applicable state regulations and laws governing the proposed event.
- (b) For parades or public assemblies held on a regular or recurring basis at the same location, an application for an annual permit covering all such parades or assemblies during the calendar year may be filed with the chief of police, or his designee, at least five (5) and not more than sixty (60) days before the date and time at which the first such parade or public assembly is proposed to commence. The chief of police, or his designee, may and shall make reasonable efforts to waive the minimum five-day period after due consideration of the factors specified in subsection (c) in the previous section.

- (c) If the chief of police, or his designee, denies an application, he shall promptly mail to the applicant a notice of his action, stating the reasons for his denial of the permit, and notifying the applicant of his right to appeal the denial pursuant to section 20-10 of this chapter.
- (d) If two (2) or more applications are submitted requesting a permit under this chapter for a parade or assembly to be used at the same time and place, the application first filed shall be granted if it meets the requirements of this chapter;
- (e) Nothing in this chapter shall permit the chief of police, or his designee, to deny a permit based upon political, social, or religious grounds, or reasons or based upon the content of the views expressed. Denial of a permit on such grounds is prohibited.

(Ord. of 5-13-08)

Sec. 20-6. - Alternative permit.

The chief of police, or his designee, in denying a permit for a parade or public assembly shall be empowered to authorize the conduct of the parade or assembly on a date, at a time, at a place, or over a route different from that proposed by the applicant. An applicant desiring to accept an alternate permit shall file a written notice of acceptance with the chief of police, or his designee. An alternate permit shall conform to the requirements of and shall have the effect of a permit under this chapter.

(Ord. of 5-13-08)

Sec. 20-7. - Notice to town and other officials.

Immediately upon the issuance of a permit, the chief of police, or his designee, shall send a copy thereof to the following:

- (a) The town manager;
- (b) The town attorney; and
- (c) The John H. Enders Fire and Rescue Company fire chief.

(Ord. of 5-13-08)

Sec. 20-8. - Compliance with directions and conditions.

Every person to whom a permit is issued under this chapter shall substantially comply with all permit terms and conditions and with all applicable laws and ordinances. The parade or assembly chairman or other person heading or leading the parade or assembly shall carry the permit upon his person during the conduct of the parade or assembly, and show the permit when requested to do so.

(Ord. of 5-13-08)

Sec. 20-9. - Revocation of permit.

The chief of police, or his designee, shall have the authority to revoke any permit issued pursuant to this chapter if any material information supplied by the applicant is discovered to be false or intentionally misleading, or if any term, condition, restriction, or limitation of the permit has been substantially violated, or if there is any continued violation of the terms, conditions, restrictions, or limitations of the permit after the applicant or anyone acting in concert with him is notified of a violation of the permit by an appropriate law enforcement official.

(Ord. of 5-13-08)

Sec. 20-10. - Appeal.

- (a) Any person aggrieved by the refusal of the chief of police, or his designee, to grant a permit, or by the revocation of a permit after one has been issued, may appeal the denial or revocation to the town manager, or his designee, by filing with the town manager's office, within five (5) working days after the date of denial or revocation, a written notice of the appeal setting forth the grounds therefore. The town manager, or his designee, shall act upon the appeal within five (5) working days after its receipt.
- (b) The decision of the town manager, or his designee, may be appealed to the Circuit Court of the County of Clarke, in accordance with the laws of the Commonwealth of Virginia.
- (c) In any appeal under this section, the town shall have the burden of demonstrating that the denial or revocation of the permit was justified under section 20-5 of this chapter.

(Ord. of 5-13-08)

Sec. 20-11. - Public conduct during parades, demonstrations, and assemblies.

- (a) *Interference.* No person shall unreasonably hamper, obstruct, impede, or interfere with any parade, demonstration, or assembly, or with any person, vehicle, or animal participating or used in a parade, demonstration or assembly, for which a written permit has been issued in accordance with the provisions of this chapter.
- (b) *Driving through parades.* No driver of a vehicle shall drive between the vehicles, persons, or animals comprising a parade, demonstration, or assembly or funeral procession except when otherwise directed by a police officer. This shall not apply to authorized emergency vehicles.
- (c) *Parking on parade, demonstration, or assembly route.* The chief of police, or his designee, shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along the public streets or public rights-of-way constituting a part of the route of a parade, demonstration, or assembly. The chief of police, or his designee, shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this chapter.

(Ord. of 5-13-08)

Sec. 20-12. - Severability.

If any portion of this chapter is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this chapter and such invalid provisions or portions thereof shall be severable.

(Ord. of 5-13-08)